

Please note: These transcripts are not individually reviewed and approved for accuracy.

BEFORE THE
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
PERMITTING AND ENFORCEMENT COMMITTEE

IN THE MATTER OF THE:)
)
PERMITTING AND)
ENFORCEMENT COMMITTEE)
)

DATE AND TIME: TUESDAY, SEPTEMBER 16, 1997
 9:30 A.M.

PLACE: BOARD HEARING ROOM
 8800 CAL CENTER DRIVE SACRAMENTO,
 CALIFORNIA

REPORTER: BETH C. DRAIN, RPR, CSR
 CERTIFICATE NO. 7152

BRS FILE NO.: 41671

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APPEARANCES

MR. ROBERT FRAZEE, CHAIRMAN
MR. STEVEN R. JONES, MEMBER
MR. PAUL RELIS, MEMBER

STAFF PRESENT

MR. RALPH CHANDLER, EXECUTIVE DIRECTOR
MR. KEITH SMITH, DEPUTY DIRECTOR
MR. ELLIOT BLOCK, LEGAL COUNSEL
MS. LORI LOPEZ, COMMITTEE SECRETARY

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20		
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ITEM 18: OPEN DISCUSSION

ITEM 19: ADJOURNMENT

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2 SACRAMENTO, CALIFORNIA; TUESDAY, SEPTEMBER 16, 1997

3 9:30 A.M.

4

5 CHAIRMAN FRAZEE: THE MEETING WILL COME TO
6 ORDER, PLEASE. WE'LL ASK THE SECRETARY TO CALL THE
7 ROLL.

8 THE SECRETARY: BOARD MEMBER JONES.

9 MEMBER JONES: HERE.

10 THE SECRETARY: RELIS.

11 MEMBER RELIS: HERE.

12 THE SECRETARY: CHAIRMAN FRAZEE.

13 CHAIRMAN FRAZEE: HERE. ALL MEMBERS OF
14 THE COMMITTEE ARE PRESENT. ANY EX PARTE
15 COMMUNICATIONS THIS MORNING?

16 MEMBER JONES: MINE ARE ALL UP-TO-DATE.

17 MEMBER RELIS: SAME.

18 CHAIRMAN FRAZEE: AND MINE ARE.

19 JUST BY WAY OF PRELIMINARY ANNOUNCE-
20 MENTS, THE FOLLOWING ITEMS HAVE BEEN PULLED FROM
21 TODAY'S AGENDA: ITEMS 9, 10, 11, AND 17. AND THE
22 ITEM -- A PORTION OF ITEM 14, THE LIKELY ILLEGAL
23 DISPOSAL SITE, HAS BEEN PULLED FROM TODAY'S
24 COMMITTEE AGENDA ALSO.

IF ANYONE WISHES TO SPEAK BEFORE THE

7

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1 COMMITTEE ON ANY ITEM ON TODAY'S AGENDA, WE WOULD
2 APPRECIATE IT IF YOU WOULD FILL OUT A SPEAKER SLIP
3 LOCATED ON THE TABLE IN THE BACK OF THE ROOM AND
4 BRING IT FORWARD TO THE COMMITTEE SECRETARY.

5 WE'RE READY NOW FOR ITEM 1, THE
6 REPORT FROM THE DEPUTY DIRECTOR.

7 MS. RICE: THANK YOU, MR. CHAIRMAN AND
8 MEMBERS. GOOD MORNING. A FEW BRIEF ITEMS BEFORE
9 WE GET INTO TODAY'S AGENDA. FIRST OF ALL, I JUST
10 WANTED TO ADVISE MEMBERS AND AUDIENCE THAT DIVISION
11 STAFF, BOARD STAFF, ARE WORKING ON AN LEA-WASTE
12 BOARD CONFERENCE IN ASILIMAR PLANNED FOR NOVEMBER
13 12TH THROUGH THE 14TH. THIS IS IN A SENSE A STAFF
14 CONFERENCE FOR BOARD STAFF AND LEA STAFF.

15 THE IDEA FOR SUCH A CONFERENCE WAS
16 DISCUSSED AS PART OF PARTNERSHIP 2000 AND IS
17 DESIGNED TO BRING LEA STAFF FROM THROUGHOUT THE
18 STATE TOGETHER TO WITH BOARD STAFF TO DISCUSS
19 ISSUES OF MUTUAL CONCERN. WE ARE HOPING TO PROVIDE
20 OPPORTUNITIES TO SHARE INFORMATION, NETWORK,
21 PROBLEM SOLVE, AND SUGGEST SOLUTIONS TO ISSUES
22 WHICH FACE ALL OF US IN REGULATING SOLID WASTE
23 FACILITIES AND OPERATIONS SO THAT WE CAN DO A
24 BETTER JOB IN BRINGING ITEMS FORWARD FOR YOUR

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1 PER MR. RELIS' REQUEST, AS I RECALL,
2 AT LAST MONTH'S COMMITTEE MEETING, WE SOUGHT TO PUT
3 SOME INFORMATION TOGETHER THIS MONTH ON ENFORCEMENT
4 ACTIONS TAKEN UNDER THE EMERGENCY REGULATIONS FOR
5 CHIPPING AND GRINDING OPERATIONS, IF YOU RECALL THE
6 DISCUSSION FROM LAST MONTH.

7 THE INFORMATION WE HAVE BEEN ABLE TO
8 GATHER TO DATE IS SKETCHY. WE ATTEMPTED TO POLL
9 LEA'S PRIOR TO THIS MEETING AND HAVE NOT RECEIVED
10 ANY INFORMATION INDICATING THAT AN LEA HAS TAKEN AN
11 ENFORCEMENT ACTION UNDER THE EMERGENCY REGULATIONS.
12 SOME LEA'S DID INDICATE TO STAFF THAT THEY ARE
13 USING THE EMERGENCY REGULATIONS TO DOCUMENT
14 VIOLATIONS AT THIS TIME, BUT HAVE NOT PROCEEDED
15 FURTHER. COUNTIES THAT FALL INTO THAT CATEGORY
16 INCLUDE VENTURA AND SANTA BARBARA COUNTIES.

17 I APOLOGIZE FOR THE LACK OF A
18 DETAILED REPORT AND WILL ATTEMPT TO HAVE A MORE
19 DEFINITIVE REPORT FOR YOU AT NEXT MONTH'S COMMITTEE
20 MEETING. ALSO IN OCTOBER, WHICH WOULD BE TIMELY,
21 WE HOPE TO BRING YOU AN ITEM DISCUSSING WASTE BOARD
22 AUTHORITY ISSUES ASSOCIATED WITH THE REGULATORY
23 EFFORT TO SLOT ORGANIC MATERIALS FACILITIES AND
24 OPERATIONS INTO THE REGULATORY TIERS.

I WANTED TO ALSO LET YOU KNOW ABOUT

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1 SOME WORKSHOPS THAT ARE UNDER WAY RIGHT NOW UNDER A
2 PROJECT WE ARE CALLING THE PERMIT CHANGE
3 PARTNERSHIP, WHICH, I'M SURE, IS OF INTEREST TO YOU
4 GIVEN LAST MONTH'S BOARD MEETING DISCUSSION ON THE
5 TITLE 27 CHANGES AND HOW THOSE AFFECT BOARD STAFF
6 WORK AND LEA WORK.

7 ORANGE COUNTY, WE HELD A WORKSHOP
8 THERE LAST WEEK. WE HAVE ONE PLANNED FOR THIS WEEK
9 IN LIVERMORE AND NEXT WEEK IN REDDING. THEY ARE
10 GOING VERY WELL. WE ARE SEEKING INPUT AND IDEAS
11 FROM LEA'S AND BOARD STAFF ON OUTSTANDING ISSUES
12 INVOLVING THE SOLID WASTE FACILITIES PERMIT TO
13 BRING FORWARD AS APPROPRIATE TO THIS COMMITTEE AND
14 THE BOARD. ISSUES IN A WIDE RANGE ARE BEING
15 DISCUSSED, SUCH AS THE APPROPRIATE SCOPE AND
16 CONTENTS OF THE PERMIT, ITS PURPOSE, AND HOW TO
17 DETERMINE SIGNIFICANT CHANGE. THESE ARE THE SORTS
18 OF TOPICS THAT ARE BEING DISCUSSED. I'M SURE
19 YOU'LL BE HEARING MUCH MORE ABOUT THIS PROJECT IN
20 THE NEAR FUTURE.

21 WE ARE ALSO IN THE PROCESS OF SCOPING
22 THE CONTENTS OF THE DRAFT REGULATIONS TO ADDRESS
23 ISSUES THAT HAVE BEEN RAISED OVER THE MONTHS BY
24 THIS COMMITTEE, THE POLICY COMMITTEE, AND OTHERS ON

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1 OR NOT THOSE REGULATIONS IN THEIR CURRENT FORM BEST
2 SUPPORT THE POLICY INITIATIVES OF THIS BOARD AND
3 THE LEGISLATURE FOR ENCOURAGING REUSE AND RECYCLING
4 OF TIRES AND DISCOURAGING STOCKPILING.

5 WE HAD A VERY PRODUCTIVE SCOPING
6 MEETING WHERE A NUMBER OF YOUR OFFICES WERE ABLE TO
7 PARTICIPATE, AND I WANT TO THANK YOU FOR THAT
8 PARTICIPATION.

9 LASTLY, I'D LIKE TO JUST MAKE A FEW
10 BRIEF REMARKS ABOUT THE ITEM THAT WAS PULLED FROM
11 TODAY'S AGENDA AT MY REQUEST. ONE OF THE SITES
12 UNDER THE AB 2136 PROGRAM, THE LIKELY DISPOSAL
13 SITE. MY REASON FOR REQUESTING THIS CHANGE ON
14 TODAY'S AGENDA IS THAT, AS YOU NOTED IN YOUR
15 BRIEFINGS AND IN THE ITEM, THE SITE IS ON PROPERTY
16 OWNED BY THE FEDERAL BUREAU OF LAND MANAGEMENT.

17 I FEEL THAT BEFORE WE BRING ANY SITES
18 ON FEDERAL LANDS FOR YOUR CONSIDERATION, WE SHOULD
19 FIRST BRING A MORE GENERAL ITEM DESCRIBING THE
20 ISSUES INVOLVED IN PROPOSING TO SPEND STATE FUNDS
21 ON FEDERAL SITES, INCLUDING A DESCRIPTION OF THE
22 EXTENT OF THE PROBLEM ON FEDERAL LANDS, AND THE
23 POTENTIAL FOR A FEDERAL REIMBURSEMENT PROGRAM FOR
24 SUCH WORK IN CALIFORNIA.

25

WE WOULD PROPOSE TO RETURN TO THIS
11

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1 COMMITTEE IN TWO OR THREE MONTHS WITH SUCH A
2 GENERAL DISCUSSION ITEM IF IT IS THE WISH OF THE
3 COMMITTEE THAT WE DO SO, WHICH WOULD NOT INCLUDE
4 ANY SPECIFIC REQUEST FOR FUNDING, BUT WOULD INSTEAD
5 BE A POLICY DISCUSSION ITEM FOR YOUR CONSIDERATION.

6 AND WITH THOSE ITEMS, I CONCLUDE MY
7 REPORT, AND I'M HAPPY TO ANSWER ANY QUESTIONS.
8 THANK YOU.

9 CHAIRMAN FRAZEE: QUESTIONS OF -- OKAY.
10 THANK YOU.

11 NOW WE'RE READY TO PROCEED WITH THE
12 REGULAR AGENDA. FIRST ITEM IS THE CONSIDERATION OF
13 CONSENT ITEMS. THERE'S ONLY ONE ITEM ON THE
14 CONSENT CALENDAR. THAT'S THE CONSIDERATION OF A
15 REVISED SOLID WASTE FACILITY PERMIT FOR THE AUBURN
16 PLACER DISPOSAL TRANSFER STATION.

17 MEMBER JONES: MR. CHAIRMAN, I'D LIKE TO
18 MAKE A MOTION THAT WE ACCEPT THE CONSENT CALENDAR.

19 MEMBER RELIS: SECOND.

20 CHAIRMAN FRAZEE: WE HAVE A MOTION AND
21 SECOND ON THE CONSENT CALENDAR. WILL THE SECRETARY
22 CALL THE ROLL, PLEASE.

23 THE SECRETARY: BOARD MEMBER RELIS.

24 MEMBER RELIS: AYE.

25

THE SECRETARY: BOARD MEMBER JONES.

12

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1 MEMBER JONES: AYE.

2 THE SECRETARY: CHAIRMAN FRAZEE.

3 CHAIRMAN FRAZEE: AYE. MOTION IS CARRIED.

4 NOW WE HAVE ITEM 3 AND 4, WHICH BOTH
5 RELATE TO THE SAME FACILITY, THE CONSIDERATION OF
6 ADOPTION OF A MITIGATED NEGATIVE DECLARATION FOR
7 THE CITY OF EL PASO DE ROBLES LANDFILL IN SAN LUIS
8 OBISPO COUNTY, AND THE CONSIDERATION OF CONCURRENCE
9 IN THE ISSUANCE OF A REVISED SOLID WASTE FACILITY
10 PERMIT FOR THE SAME JURISDICTION.

11 MS. RICE: THANK YOU, MR. CHAIRMAN AND
12 MEMBERS. BOB HOLMES WILL MAKE THE PRESENTATION ON
13 BOTH ITEMS.

14 MR. HOLMES: MORNING, MR. CHAIR AND
15 MEMBERS OF THE COMMITTEE. THE BOARD BECAME THE
16 ENFORCEMENT AGENCY FOR THE CITY OF EL PASO DE
17 ROBLES IN OCTOBER 1995. IN JANUARY OF 1996, THE
18 BOARD CONSIDERED A REVISED SOLID WASTE FACILITIES
19 PERMIT FOR THE PASO ROBLES LANDFILL. THE BOARD
20 DECIDED NOT TO RELY ON THE CEQA DOCUMENT PREPARED
21 IN SUPPORT OF THIS SOLID WASTE FACILITIES PERMIT
22 REVISION. THE BOARD ASSUMED THE ROLE OF LEAD
23 AGENCY UNDER CEQA AND DIRECTED STAFF TO BEGIN WORK

24 ON AN INITIAL STUDY.

25 THE BOARD'S CONTRACT CONSULTANT

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1 COMPLETED THE INITIAL STUDY IN MARCH 1997. THE
2 INITIAL STUDY IDENTIFIED ONE POTENTIAL SIGNIFICANT
3 ENVIRONMENTAL EFFECT TO AIR QUALITY. THE CITY WILL
4 MITIGATE THIS IMPACT BY INSTALLING BEST AVAILABLE
5 CONTROL TECHNOLOGY ON ON-SITE LANDFILL EQUIPMENT.

6 THE INITIAL STUDY ALSO IDENTIFIED A
7 POTENTIAL, BUT LESS THAN SIGNIFICANT IMPACT TO
8 TRAFFIC SAFETY DUE TO SLOW MOVING VEHICLES LEAVING
9 THE LANDFILL.

10 BOARD STAFF RECEIVED TWO SETS OF
11 COMMENTS ON THE INITIAL STUDY, ONE FROM THE SAN
12 LUIS OBISPO COUNTY AIR POLLUTION CONTROL DISTRICT
13 REGARDING THE AIR QUALITY ANALYSIS. THE APCD WAS
14 PLEASED WITH THE ANALYSIS.

15 THIS COMMITTEE HEARD THIS ITEM, THE
16 ACCEPTANCE OF THE MITIGATED NEG DEC, IN JUNE OF
17 1997 BEFORE RECEIPT OF COMMENTS FROM CALTRANS.
18 CALTRANS COMMENTS EXPRESSED CONCERNS WITH THE
19 TRAFFIC ANALYSIS. ONE CONCERN STEMMED FROM THE
20 METHODOLOGY USED TO ANALYZE ONE OF THE
21 INTERSECTIONS. THE CONSULTANT REANALYZED THE
22 INTERSECTION USING THE APPROPRIATE METHODOLOGY.

23 THE ORIGINAL FINDING, THAT TRAFFIC AT
24 THE INTERSECTION WOULD POSE A LESS THAN SIGNIFICANT

25 IMPACT, WAS NOT CHANGED BY THE REANALYSIS.

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1 CALTRANS OTHER CONCERN WAS WITH THE
2 SLOW MOVING VEHICLES EXITING THE LANDFILL.
3 ALTHOUGH NOT REQUIRED AS A MITIGATION MEASURE UNDER
4 CEQA, THE CITY HAS AGREED TO COORDINATE WITH
5 CALTRANS ON THE INSTALLATION OF A WESTBOUND MERGE
6 LANE AT SUCH FUTURE TIME IF AND WHEN A DAILY
7 AVERAGE OF FIVE OR MORE LONG-HAUL TRANSFER TRUCKS
8 ARE USING THE LANDFILL.

9 WE FAX'D OUT THIS STAFF REPORT TO
10 CALTRANS, AND WE HAVE NOT RECEIVED A COMMENT FROM
11 THEM TO DATE. I DO EXPECT THAT THEY WILL HAVE
12 SOMETHING FOR US IN WRITING PRIOR TO THE BOARD
13 MEETING.

14 IN CONCLUSION, BASED ON THE IMPACTS
15 IDENTIFIED IN THE INITIAL STUDY, BOARD STAFF FIND
16 THAT WITH THE INSTALLATION OF BEST AVAILABLE
17 CONTROL TECHNOLOGY ON LANDFILL EQUIPMENT TO
18 MITIGATE THE AIR QUALITY IMPACT, THERE IS NO
19 SUBSTANTIAL EVIDENCE THAT THIS PROPOSED PROJECT
20 WILL HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT.

21 FURTHERMORE, THE INSTALLATION OF A
22 WESTBOUND ACCELERATION LANE ONCE THE THRESHOLD OF
23 FIVE OR MORE LONG-HAUL TRANSFER TRUCKS IS REACHED,

24 IF APPROVED BY CALTRANS, WILL LESSEN THE SEVERITY
25 OF THE POTENTIAL IMPACT TO TRAFFIC SAFETY.

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1 STAFF, THEREFORE, FIND IT APPROPRIATE
2 TO ADOPT A MITIGATED NEGATIVE DECLARATION FOR THIS
3 PROJECT. THAT CONCLUDES MY PRESENTATION.

4 CHAIRMAN FRAZEE: OKAY. WE HAVE A
5 REQUEST TO SPEAK ON THESE TWO ITEMS FROM JOHN
6 MCCARTHY, REPRESENTING THE CITY OF EL PASO DE
7 ROBLES.

8 MR. MC CARTHY: THANK YOU, COMMITTEE
9 MEMBERS. MY NAME IS JOHN MCCARTHY, PUBLIC WORKS
10 DIRECTOR FOR THE CITY OF PASO ROBLES.

11 WANTED TO THANK BOB FOR HIS HELP
12 GETTING US THROUGH THE ENVIRONMENTAL PROCESS, AND
13 STAFF, THEY'VE DONE A REAL GOOD JOB GETTING US TO
14 THIS POINT. WE LOOK FORWARD TO COMING AND GETTING
15 OUR PERMIT THROUGH THE PROCESS IN THE NEAR FUTURE.

16 WE WILL BE WORKING WITH CALTRANS, AS
17 BOB MENTIONED, CLOSELY AS THE LANDFILL CONTINUES TO
18 EXPAND. AND WE'RE AVAILABLE FOR ANY QUESTIONS YOU
19 MAY HAVE. THANK YOU.

20 CHAIRMAN FRAZEE: QUESTIONS?

21 MEMBER JONES: MR. CHAIRMAN, I'D LIKE TO
22 MAKE A MOTION THAT WE ADOPT THE NEGATIVE DEC,
23 RESOLUTION NO. 97-246.

24 MEMBER RELIS: SECOND.

25

CHAIRMAN FRAZEE: WE HAVE A MOTION AND

16

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1 SECOND ON THE ADOPTION OF RESOLUTION 97-246.

2 SECRETARY WILL CALL THE ROLL ON THAT ONE, PLEASE.

3 THE SECRETARY: BOARD MEMBER RELIS.

4 MEMBER RELIS: AYE.

5 THE SECRETARY: BOARD MEMBER JONES.

6 MEMBER JONES: AYE.

7 THE SECRETARY: CHAIRMAN FRAZEE.

8 CHAIRMAN FRAZEE: AYE. MOTION IS CARRIED.

9 AND NOW ON THE PERMIT ITSELF.

10 MR. HOLMES: OKAY. ONCE WE HAVE THE
11 ENVIRONMENTAL ANALYSIS IN PLACE, EVERYTHING ELSE
12 WILL BE IN PLACE FOR THE PERMIT. I'LL JUST QUICKLY
13 GO OVER THE CHANGES THAT ARE BEING MADE.

14 THE STANDING PERMIT IS A 1986 PERMIT,
15 WHICH HAS A 70-TON PER DAY LIMIT. THERE IS A
16 NOTICE AND ORDER IN PLACE THAT ALLOWS THE STATUS
17 QUO OF 90 TONS PER DAY. WITH THE PERMIT, THE
18 TONNAGE COULD INCREASE TO 69,000 TONS PER YEAR,
19 WHICH WORKS OUT TO BE ABOUT AN AVERAGE OF 190 TONS
20 PER DAY.

21 THERE IS AN INCREASE IN THE ELEVATION
22 OF THE LANDFILL FROM 1140 FEET MEAN SEA LEVEL TO
23 1226 FEET MEAN SEA LEVEL, AND THE DESIGN HAS
24 CHANGED FROM A TRENCH AND FILL TO A MASS FILL WHICH

25 HAS ALLOWED THE CITY TO INSTALL A LINER AND A
17

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1 LEACHATE RECOVERY SYSTEM.

2 WITH THAT, STAFF FIND THAT THE
3 PROPOSED SOLID WASTE FACILITY PERMIT AND SUPPORTING
4 DOCUMENTATION ARE ACCEPTABLE FOR THE BOARD'S
5 CONSIDERATION OF CONCURRENCE. AND WE RECOMMEND
6 THAT YOU ADOPT PERMIT DECISION NO. 97-414,
7 CONCURRING IN THE ISSUANCE OF A SOLID WASTE
8 FACILITIES PERMIT FOR PASO ROBLES LANDFILL,
9 FACILITY NO. 40-AA-0001. THAT CONCLUDES MY
10 PRESENTATION.

11 MEMBER RELIS: MR. CHAIR, I'LL MOVE PERMIT
12 DECISION 97-414.

13 MEMBER JONES: SECOND.

14 CHAIRMAN FRAZEE: WE HAVE A MOTION AND
15 SECOND ON THE ADOPTION OF PERMIT DECISION 97-414.
16 WITHOUT OBJECTION, WE'LL SUBSTITUTE THE PRIOR ROLL
17 CALL. THESE TWO ITEMS WILL NOT BE ON CONSENT.
18 BECAUSE WE ARE THE EA ON THESE, THEY WILL NEED TO
19 GO TO THE FULL BOARD.

20 OKAY. NOW WE ARE READY FOR SAN
21 BERNARDINO COUNTY, AGENDA ITEM 5, CONSIDERATION OF
22 A REVISED SOLID WASTE FACILITY PERMIT FOR THE
23 MILLIKEN SANITARY LANDFILL IN SAN BERNARDINO

24 COUNTY. STAFF REPORT.

25 MS. RICE: THANK YOU, MR. CHAIRMAN AND

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1 MEMBERS. THIS FIRST ITEM WILL BE PRESENTED BY
2 TADESE GEBREHAWARIAT OF BOARD STAFF, ASSISTED BY
3 MS. PAT GALLAGHER WITH THE LOCAL ENFORCEMENT
4 AGENCY.

5 MR. GEBREHAWARIAT: GOOD MORNING. THE
6 FIRST ITEM -- THE FIRST THING I WANTED TO SAY IS
7 THAT WHEN THE ITEMS WERE PREPARED, WE DIDN'T HAVE
8 RESOLUTIONS. TODAY I BELIEVE WE PROVIDED 20 COPIES
9 OF IT, AND I BELIEVE THEY HAVE BEEN PASSED AROUND.

10 THE OWNER AND OPERATOR OF THE
11 MILLIKEN SANITARY LANDFILL IS THE SAN BERNARDINO
12 COUNTY WASTE SYSTEMS DIVISION, AND MR. GERRY
13 NEWCOMBE IS THE CONTRACT ADMINISTRATOR. UNDER
14 CONTRACT THE DAY-TO-DAY OPERATION IS CARRIED OUT BY
15 NORCAL SAN BERNARDINO INC.

16 THE PROPOSED PERMIT IS TO ALLOW THE
17 FOLLOWING: FIRST IS TO STIPULATE IN THE SOLID
18 WASTE FACILITY PERMIT THE NEWLY CALCULATED DESIGN
19 CAPACITY OF A LITTLE OVER 29 MILLION CUBIC YARDS,
20 WHICH RESULTED FROM THE REDESIGNING OF THE LANDFILL
21 FINAL GRADING PLAN. AND ON THE BASIS OF THE
22 EXPANDED DESIGN CAPACITY, TO STIPULATE IN THE
23 PERMIT THE ESTIMATED CLOSURE PERIOD OF AUGUST THE
24 YEAR 2001. IT'S ALSO TO INCORPORATE INTO THE TERMS

25

AND CONDITIONS OF THE PERMIT THE NEW RDSI DATED MAY

19

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1 1997 AND THE SUPPORTING DOCUMENT THAT DESCRIBES THE
2 CURRENT LANDFILL OPERATIONS.

3 AS I ALLUDED TO PREVIOUSLY, AT THE
4 TIME THAT THE ITEM WAS PREPARED, THE PERMIT
5 INSPECTION BY BOARD STAFF HAD NOTED A VIOLATION OF
6 STATE MINIMUM STANDARDS. SPECIFICALLY THE
7 VIOLATION WAS THAT OF THE CONCENTRATION OF METHANE
8 IN EXCESS OF THE LOWER EXPLOSIVE LIMIT AT THE
9 SOUTHERN PROPERTY BOUNDARY.

10 THE VIOLATION EXISTED BECAUSE THE
11 OPERATOR DISCONNECTED THE LINE BETWEEN THE
12 EXTRACTION WELL IN THE VICINITY, AND THE GAS
13 MANAGEMENT SYSTEM FACILITATE THE TRAFFIC OF
14 DISPOSAL ACTIVITY THAT WAS BEING CONDUCTED IN THE
15 AREA.

16 THE LEA REQUIRED RECONNECTION OF THE
17 LINE AND MONITORING OF THE PROBE. THE LINE WAS
18 RECONNECTED TO THE GAS MANAGEMENT SYSTEM; AND BY
19 THE END OF THE FIRST WEEK OF SEPTEMBER, THE METHANE
20 AT THE PROBES WERE WELL WITHIN THE REQUIRED LIMITS,
21 AND THE VIOLATION WAS DEEMED CORRECTED.

22 THE LEA AND BOARD STAFF HAVE
23 DETERMINED THAT ALL THE REQUIRED FINDINGS HAVE BEEN
24 MADE. ONE, THAT THE MILLIKEN SANITARY LANDFILL IS

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1 ONTARIO, AND THAT THE CITY HAS DETERMINED THAT THE
2 OPERATION OF THE LANDFILL IS COMPATIBLE WITH THE
3 SURROUNDING LAND USE; TWO, THAT THE LANDFILL IS
4 IDENTIFIED IN THE COUNTY SITING ELEMENT WHICH HAS
5 BEEN APPROVED BY THE BOARD; AND, THREE, THAT CEQA
6 HAS BEEN COMPLIED WITH.

7 STAFF REVIEWED THE PROPOSED PERMIT
8 AND SUPPORTING DOCUMENTATION AND HAVE FOUND THEM TO
9 BE ACCEPTABLE FOR CONSIDERATION BY THE BOARD.

10 IN CONCLUSION, STAFF RECOMMEND THAT
11 THE BOARD ADOPT SOLID WASTE FACILITY PERMIT
12 DECISION NO. 97-416, CONCURRING IN THE ISSUANCE OF
13 SOLID WASTE FACILITY PERMIT NO. 36-AA-0054.

14 MS. PAT GALLAGHER, REPRESENTING THE
15 LEA, IS HERE. ALSO, MR. RON DEERE, REPRESENTING
16 NORCAL, ARE HERE TO ANSWER ANY QUESTIONS THAT THE
17 COMMITTEE MEMBERS MAY HAVE. AND THIS CONCLUDES MY
18 PRESENTATION.

19 CHAIRMAN FRAZEE: DO YOU HAVE ANY
20 COMMENTS?

21 MS. GALLAGHER: OTHER THAN I THINK TADESE
22 HAS DONE AN EXCELLENT JOB ON ASSISTING US IN THESE
23 DOCUMENTS. NO, I THINK THAT'S PRETTY MUCH IT.

24 CHAIRMAN FRAZEE: OKAY. HAVE THE ITEM

25 BEFORE US. QUESTIONS OR DISCUSSION?
 21

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1 MEMBER JONES: MR. CHAIRMAN, I'LL MAKE A
2 MOTION THAT WE ACCEPT PERMIT DECISION NO. 97-416,
3 THE ISSUANCE OF THE REVISED PERMIT.

4 MEMBER RELIS: I'LL SECOND.

5 CHAIRMAN FRAZEE: WE HAVE A MOTION AND
6 SECOND ON THE ADOPTION OF PERMIT DECISION 97-416.
7 SECRETARY WILL CALL THE ROLL ON THAT ITEM.

8 THE SECRETARY: BOARD MEMBER RELIS.

9 MEMBER RELIS: AYE.

10 THE SECRETARY: BOARD MEMBER JONES.

11 MEMBER JONES: AYE.

12 THE SECRETARY: CHAIRMAN FRAZEE.

13 CHAIRMAN FRAZEE: AYE. MOTION IS CARRIED;
14 AND WITHOUT OBJECTION, WE'LL RECOMMEND THIS ITEM
15 FOR THE CONSENT CALENDAR TO THE BOARD.

16 ITEM 6 IS THE CONSIDERATION OF A
17 REVISED SOLID WASTE FACILITY PERMIT FOR THE FORT
18 IRWIN SANITARY LANDFILL IN SAN BERNARDINO COUNTY.
19 STAFF REPORT ON THIS ONE, PLEASE.

20 MR. GEBREHAWARIAT: THE PROPOSED PERMIT IS
21 TO ALLOW THE FOLLOWING: AGAIN, STIPULATE IN THE
22 SOLID WASTE FACILITY PERMIT THE CORRECT PERMIT
23 LANDFILL SIZE OF 467 ACRES. IT'S ALSO TO ALLOW AN
24 INCREASE IN RATE OF PEAK DAILY WASTE RECEIPT FROM

25 80 TO A HUNDRED TONS, AN INCREASE IN THE PERMITTED
 22

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1 TRAFFIC VOLUME FROM 80 TO A 120 VEHICLES PER DAY,
2 CHANGE IN THE SOLID WASTE FACILITY PERMIT THE
3 ESTIMATED LANDFILL CLOSURE PERIOD FROM THE YEAR
4 2088 TO 2093.

5 THE LEA AND BOARD STAFF HAVE
6 DETERMINED THAT ALL THE REQUIRED FINDINGS HAVE BEEN
7 MADE; THAT THE SAN BERNARDINO COUNTY PLANNING
8 DEPARTMENT HAS DETERMINED THAT THE REQUIREMENTS OF
9 CONSISTENCY WITH THE COUNTY GENERAL PLAN ARE NOT
10 APPLICABLE TO THIS FEDERAL FACILITY; THAT THE
11 LANDFILL IS IDENTIFIED IN THE COUNTY SITING ELEMENT
12 WHICH HAS BEEN APPROVED BY THE BOARD; THAT CEQA HAS
13 BEEN COMPLIED WITH; AND THAT THE OPERATION OF THE
14 LANDFILL ARE CONSISTENT WITH THE STATE MINIMUM
15 STANDARDS.

16 STAFF REVIEWED THE PROPOSED PERMIT
17 AND SUPPORTING DOCUMENTATION AND HAVE FOUND THEM TO
18 BE ACCEPTABLE FOR CONSIDERATION BY THE BOARD.

19 STAFF RECOMMEND THAT THE BOARD ADOPT SOLID WASTE
20 FACILITY PERMIT DECISION NO. 97-417, CONCURRING IN
21 THE ISSUANCE OF SOLID WASTE FACILITY PERMIT NO.
22 36-AA-0068. AND MR. MAT SLOWIK, REPRESENTING THE
23 SAN BERNARDINO COUNTY LEA, IS HERE AS WELL AS MR.
24 RON DEERE.

25

CHAIRMAN FRAZEE: DO YOU HAVE ANY
23

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1 COMMENTS?

2 MR. SLOWIK: I'D LIKE TO THANK STATE STAFF
3 AS WELL AS FORT IRWIN FOR PUTTING FORTH THE EFFORT
4 TO SUBMIT THE PERMIT TO YOU TODAY.

5 MEMBER RELIS: MR. CHAIR, I'LL MOVE PERMIT
6 DECISION 97-417.

7 MEMBER JONES: I'LL SECOND.

8 CHAIRMAN FRAZEE: WE HAVE A MOTION AND
9 SECOND ON THE ADOPTION OF PERMIT DECISION 97-417.
10 SECRETARY WILL CALL THE ROLL ON THAT.

11 THE SECRETARY: BOARD MEMBER RELIS.

12 MEMBER RELIS: AYE.

13 THE SECRETARY: BOARD MEMBER JONES.

14 MEMBER JONES: AYE.

15 THE SECRETARY: CHAIRMAN FRAZEE.

16 CHAIRMAN FRAZEE: AYE. MOTION IS CARRIED.
17 WITHOUT OBJECTION, WE'LL RECOMMEND IT FOR THE
18 CONSENT CALENDAR TO THE FULL BOARD.

19 NOW, ITEM 7 IS THE CONSIDERATION OF A
20 REVISED SOLID WASTE FACILITY PERMIT FOR THE COLTON
21 SANITARY LANDFILL IN SAN BERNARDINO COUNTY.

22 MR. GEBREHAWARIAT: FOR THIS ITEM AS WELL,
23 WE PASSED OUT RESOLUTIONS AT THE -- BECAUSE AT THE
24 TIME THE ITEMS WERE PREPARED, WE DIDN'T HAVE ALL

25

THE INFORMATION NECESSARY TO DO THAT.

24

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1 THE PROPOSED PERMIT IS TO ALLOW THE
2 FOLLOWING: WRITE THE 1979 SOLID WASTE FACILITY
3 PERMIT IN THE CURRENT FORMAT, STIPULATING
4 APPROPRIATE TERMS AND CONDITIONS FOR LANDFILL
5 OPERATION CONSISTENT WITH THE CURRENT REGULATORY
6 REQUIREMENTS. IT'S ALSO TO ALLOW AN INCREASE IN
7 THE RATE OF DAILY WASTE RECEIPT FROM 180 TONS PER
8 DAY TO 3,100 TONS PER DAY. IT'S TO ALLOW ALSO A
9 CHANGE IN THE HOURS OF OPERATION. ALSO, IT'S TO
10 ALLOW AN EXPANSION IN THE OVERALL FACILITY SIZE
11 FROM 94 TO 98 ACRES, WITH THE LANDFILL FOOTPRINT
12 REMAINING UNCHANGED, BUT ALSO INCORPORATING INTO
13 THE FOOTPRINT THE PORTIONS OF THE ADJACENT PROPERTY
14 WHERE WASTE WAS PLACED INADVERTENTLY.

15 THE SOLID WASTE FACILITY PERMIT ALSO
16 WILL INCORPORATE INTO THE TERMS AND CONDITIONS OF
17 THE PERMIT THE RDSI VOLUMES THAT WERE SUBMITTED
18 WITH THIS APPLICATION PACKAGE.

19 AT THE TIME THIS ITEM WAS PREPARED,
20 THE PREPERMIT INSPECTION BY BOARD STAFF HAD NOTED
21 VIOLATIONS OF STATE MINIMUM STANDARDS.
22 SPECIFICALLY THE VIOLATIONS WERE GRADING AND FILL
23 SURFACE AND -- GRADING OF FILL SURFACES AND COVER.
24 ON AUGUST 28, 1997, THE LEA CONDUCTED AN INSPECTION

25

OF THE SITE AND FOUND THAT THE VIOLATIONS

25

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1 PREVIOUSLY NOTED BY THE BOARD STAFF WERE CORRECTED.

2 SUBSEQUENTLY BOARD STAFF DETERMINED
3 THAT, ON THE BASIS OF THE LEA'S INSPECTION RESULTS,
4 THE OPERATION OF THE COLTON SANITARY LANDFILL ARE
5 CONSISTENT WITH THE STATE STANDARDS.

6 THE VIOLATIONS OF THE TERMS AND
7 CONDITIONS OF THE PERMIT, AS DISCUSSED BEGINNING ON
8 PAGE 64 OF THE AGENDA ITEM, WILL BE CORRECTED UPON
9 BOARD CONCURRENCE WITH THE PROPOSED PERMIT AND ITS
10 SUBSEQUENT ISSUANCE BY THE LEA.

11 THE LEA AND BOARD STAFF HAVE
12 DETERMINED THAT ALL THE REQUIRED FINDINGS HAVE BEEN
13 MADE; THAT THE COLTON SANITARY LANDFILL IS
14 CONSISTENT WITH THE GENERAL PLAN OF THE CITY OF
15 COLTON; AND THAT THE CITY HAS DETERMINED THAT THE
16 OPERATION OF THE LANDFILL IS COMPATIBLE WITH THE
17 SURROUNDING LAND USE; THAT THE LANDFILL IS
18 IDENTIFIED IN THE COUNTY SITING ELEMENT WHICH HAS
19 BEEN APPROVED BY THE BOARD; AND THAT CEQA HAS BEEN
20 COMPLIED WITH.

21 STAFF REVIEWED THE PROPOSED PERMIT
22 AND SUPPORTING DOCUMENTATION AND HAVE FOUND THEM TO
23 BE ACCEPTABLE FOR CONSIDERATION BY THE BOARD.

24 IN CONCLUSION, STAFF RECOMMEND THAT

25

THE BOARD ADOPT SOLID WASTE FACILITY PERMIT

26

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1 DECISION NO. 97-418, CONCURRING IN THE ISSUANCE OF
2 SOLID WASTE FACILITY PERMIT NO. 36-AA-0051.

3 MR. MARK STEVENS, REPRESENTING THE
4 LEA, AND MR. RON DEERE, REPRESENTING NORCAL, ARE
5 HERE TO ANSWER ANY QUESTIONS YOU MAY HAVE. THIS
6 CONCLUDES MY PRESENTATION.

7 CHAIRMAN FRAZEE: MR. STEVENS, COMMENTS?

8 MR. STEVENS: WE APPRECIATE TADD AND
9 CODY'S SUPPORT AND OTHER STATE STAFF. WE MIGHT
10 NOTE THAT COLTON CONCLUDES THE LAST OF THE COUNTY
11 SITES WITH THE 1979 PERMIT, SO THIS IS A GOOD
12 MILESTONE.

13 (APPLAUSE.)

14 MEMBER JONES: MR. CHAIRMAN, IF THERE
15 AREN'T ANY OTHER COMMENTS, I HAVE A LITTLE HISTORY
16 IN SAN BERNARDINO. I WAS VICE PRESIDENT OF
17 OPERATIONS FOR NORCAL AND HAD OVERSIGHT OF THOSE
18 OPERATIONS DOWN THERE FOUR OR FIVE YEARS AGO. SO
19 IT'S WITH A GREAT DEAL OF PLEASURE THAT I WANT TO
20 BRING PERMIT DECISION 97-418 FOR ACCEPTANCE.

21 MEMBER RELIS: MR. CHAIR, I'LL RELUCTANTLY
22 SECOND THAT ONLY ON THE BASIS THAT I'M NO BIG FAN
23 OF VERTICAL EXPANSIONS ON UNLINED LANDFILLS. THIS
24 IS PERMISSIBLE UNDER SUBTITLE D, BUT I DO NOT

25

BELIEVE IT'S FULLY IN THE SPIRIT OF THAT DIRECTION,

27

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1 BUT IT'S ALLOWED FOR UNDER LAW. SO I WILL SECOND
2 IT.

3 CHAIRMAN FRAZEE: OKAY. WE HAVE A MOTION
4 AND SECOND ON THE ADOPTION OF PERMIT DECISION
5 97-418. SECRETARY WILL CALL THE ROLL ON THAT.

6 THE SECRETARY: BOARD MEMBER RELIS.

7 MEMBER RELIS: AYE.

8 THE SECRETARY: BOARD MEMBER JONES.

9 MEMBER JONES: AYE.

10 THE SECRETARY: CHAIRMAN FRAZEE.

11 CHAIRMAN FRAZEE: AYE. MOTION IS CARRIED;
12 AND WITHOUT OBJECTION, WE'LL RECOMMEND IT FOR
13 CONSENT CALENDAR TO THE FULL BOARD.

14 THEN FINALLY, THE ITEM 8,
15 CONSIDERATION OF A REVISED SOLID WASTE FACILITY
16 PERMIT FOR THE BARSTOW SANITARY LANDFILL IN SAN
17 BERNARDINO COUNTY.

18 MEMBER JONES: SO COLTON WASN'T THE LAST.

19 MR. GEBREHAWARIAT: THE PROPOSED PERMIT IS
20 TO ALLOW AN INCREASE IN TONNAGE FROM 350 TO 525
21 TONS PER DAY, AN INCREASE IN THE OPERATING HOURS,
22 CHANGE IN THE CLOSURE DATE FROM THE YEAR 2012 TO
23 THE YEAR 2007, AN ADDITION OF 6.5 ACRES FOR DRYING

24 SLUDGE WITHIN THE PERMITTED BOUNDARIES. IT'S ALSO
25 TO REFLECT THE NEWLY CHANGED NAME OF THE OWNER-

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1 OPERATOR IN THAT THE SAN BERNARDINO COUNTY SOLID
2 WASTE MANAGEMENT DEPARTMENT FROM THE -- FROM THAT
3 DEPARTMENT TO THE SAN BERNARDINO COUNTY PUBLIC
4 SERVICES GROUP, WASTE SYSTEMS DIVISION.
5 ESSENTIALLY THE SAME DEPARTMENT, BUT JUST RENAMED.

6 LEA AND BOARD STAFF HAVE DETERMINED
7 THAT ALL THE REQUIRED FINDINGS HAVE BEEN MADE. AND
8 IN CONCLUSION, STAFF RECOMMEND THAT THE BOARD ADOPT
9 RESOLUTION NO. 97-419, CONCURRING IN THE ISSUANCE
10 OF SOLID WASTE FACILITY PERMIT NO. 36-AA-0046. AND
11 MR. MARK STEVENS IS PREPARED TO ANSWER ANY
12 QUESTIONS THAT THE BOARD MAY HAVE.

13 CHAIRMAN FRAZEE: COMMENTS?

14 MR. STEVENS: AGAIN, WE APPRECIATE STAFF'S
15 REPORT. THIS IS A SECOND REPERMITTING FOR THIS
16 SITE, PREVIOUS REPERMITTING BEING IN 1995.

17 CHAIRMAN FRAZEE: OKAY. WE HAVE THIS ITEM
18 BEFORE US.

19 MEMBER JONES: MR. CHAIRMAN, I'LL MAKE A
20 MOTION THAT WE ADOPT PERMIT DECISION 97-419.

21 MEMBER RELIS: SECOND.

22 CHAIRMAN FRAZEE: WE HAVE A MOTION AND
23 SECOND ON THE ADOPTION OF 97-419. SECRETARY CALL

24 THE ROLL ON THAT ONE.

25 THE SECRETARY: BOARD MEMBER RELIS.

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1 MEMBER RELIS: AYE.

2 THE SECRETARY: BOARD MEMBER JONES.

3 MEMBER JONES: AYE.

4 THE SECRETARY: CHAIRMAN FRAZEE.

5 CHAIRMAN FRAZEE: AYE. MOTION IS CARRIED;
6 WITHOUT OBJECTION, WE'LL RECOMMEND TO THE CONSENT
7 CALENDAR FOR THE BOARD ON THIS ITEM.

8 NOW WE ARE READY FOR ITEM 12, THE
9 CONSIDERATION OF APPROVAL TO FORMALLY NOTICE FOR
10 THE PROPOSED REGULATIONS FOR ENFORCEMENT ASSISTED
11 GRANTS. HAVE THE STAFF REPORT ON THAT ONE, PLEASE.

12 MS. RICE: THANK YOU, MR. CHAIRMAN AND
13 MEMBERS. MARY COYLE AND MARK ARICO OF BOARD STAFF
14 WILL MAKE THE PRESENTATION.

15 MS. COYLE: YES, MR. CHAIRMAN AND MEMBERS.
16 THIS ITEM BRINGS FORWARD A CONSIDERATION FOR THE
17 COMMITTEE THE PROPOSED REGULATIONS FOR FORMAL
18 NOTICE TO THE OFFICE OF ADMINISTRATIVE LAW.

19 THE ENFORCEMENT ASSISTANCE GRANT
20 PROGRAM BEGAN AWARDING GRANTS TO ENFORCEMENT
21 AGENCIES IN 1991 BASED ON LAW OF AB 939. IN 1990
22 THE BOARD ADOPTED THE POLICIES AND PROCEDURES OF
23 AWARDING THOSE GRANTS. THAT GRANT PROGRAM IS A

24 NON-DISCRETIONARY PROCESS. WE'VE BEEN FOLLOWING
25 THAT PROCESS SINCE 1991.

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1 WITH THE PASSAGE OF AB 1220, A NEW
2 REVISION WAS ADDED TO THE STATUTE THAT REQUIRES US
3 TO PROCESS REGULATIONS FOR THE GRANT PROCESS AND
4 ALSO HAD A COUPLE CHANGES. ONE WAS THAT GRANTS
5 WERE NOW ELIGIBLE FOR ALL SOLID WASTE FACILITIES
6 WHEN IN PRIOR YEARS WAS JUST FOR LANDFILLS. IT
7 ALSO IS NOW ELIGIBLE FOR LOCAL ENFORCEMENT AGENCIES
8 AND NOT JUST ENFORCEMENT AGENCIES.

9 THERE'S A SMALL LITTLE DIFFERENCE
10 THERE WHICH I'LL EXPLAIN. SINCE 1990 IN THE AREAS
11 THE BOARD HAS SERVED AS ENFORCEMENT AGENCY, WE HAVE
12 OFFSET OUR COSTS THROUGH THE USE OF THE GRANTS FOR
13 THE JURISDICTIONS FOR THE COSTS THAT WE HAVE
14 INCURRED WHILE DOING THOSE DUTIES. WHEN THESE
15 REGULATIONS ARE ADOPTED AND APPROVED, WE WILL NO
16 LONGER BE OFFSETTING THOSE COSTS AS THE LAW IS VERY
17 CLEAR THAT THEY ARE FOR LOCAL ENFORCEMENT
18 AGENCIES. SO THAT WOULD BE ONE -- THE CHANGE THAT
19 THESE WOULD AFFECT.

20 THE REST OF THE PROCEDURES ARE AS
21 THEY HAVE BEEN SINCE 1990.

22 WE HAVE TAKEN THESE DRAFT REGULATIONS
23 AROUND TO THE CALIFORNIA CONFERENCE OF ENVIRON-
24 MENTAL HEALTH DIRECTORS AND THE LOCAL ENFORCEMENT

25

AGENCIES AT THE LAST ROUND TABLES. WE RECEIVED A

31

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1 FEW COMMENTS WHICH WE HAVE INCORPORATED, AND WE
2 FEEL THEY ARE READY TO START THE OFFICIAL PROCESS
3 AND BE NOTICED TO THE OFFICE OF ADMINISTRATIVE LAW;
4 AND, THEREFORE, THAT IS OUR RECOMMENDATION, TO
5 APPROVE THE FORMAL NOTICE OF THE PROPOSED REGS WITH
6 THE OFFICE. WE ARE AVAILABLE TO ANSWER ANY
7 QUESTIONS.

8 CHAIRMAN FRAZEE: ON THE ISSUE OF
9 JURISDICTIONS WHERE THE BOARD SERVES AS EA, WAS
10 THAT STATUTORY CHANGE INTENTIONAL, OR WAS IT
11 SOMETHING THAT.

12 MS. RICE: MY RECOLLECTION IS THAT IT WAS
13 NOT EVER DISCUSSED, THAT THE EFFECT OF THIS WOULD
14 BE THAT THE BOARD WOULD NO LONGER OFFSET ITS COSTS
15 IN JURISDICTIONS WHERE IT IS THE EA, BUT IT IS ONE
16 PRACTICAL EFFECT OF THE CHANGE IN STATUTE.

17 AT ONE POINT I BELIEVE LEG. COUNCIL
18 OR WHOMEVER WAS ROUTINELY GOING THROUGH OUR STATUTE
19 AND CHANGING REFERENCES TO LEA FROM EA. AND THEN,
20 OF COURSE, OTHER YEARS THERE'S BEEN AN EFFORT TO DO
21 THE OPPOSITE, TO CHANGE ALL THE REFERENCES TO EA
22 BECAUSE IT'S BROADER. SO I BELIEVE THIS SECTION
23 GOT CAUGHT UP IN THAT, ONE OF THOSE CHANGES ONE WAY
24 OR THE OTHER.

IN ANY CASE, WE DID FEEL THAT WE'VE
32

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1 BEEN SOMEWHAT REMISS IN NOT BRINGING THE REGULATION
2 FORWARD TO MAKE OUR GRANT PROGRAM CONSISTENT WITH
3 WHAT IS NOW CURRENT LAW WHICH DESCRIBES IT AS
4 STRICTLY AN LEA GRANT PROGRAM.

5 CHAIRMAN FRAZEE: AND IS IT ACADEMIC THAT
6 WE DON'T REIMBURSE OURSELVES? IS THAT THE EFFECT
7 OF THIS?

8 MS. RICE: THAT'S CORRECT. SO IT WOULD
9 HAVE AN IMPACT ON OPERATORS WITHIN THE JURISDIC-
10 TIONS WHERE WE ARE THE EA BECAUSE WE WOULD NOT BE
11 OFFSETTING OUR COSTS OF INSPECTING AND TAKING
12 PERMIT ACTIONS AT THOSE FACILITIES WITH A GRANT.
13 SO WE WOULD BE BILLING FOR OUR HOURLY SERVICES AS
14 AN LEA WOULD IN MOST INSTANCES.

15 MS. COYLE: WE DID, JUST FOR YOUR
16 INFORMATION, WE SENT OUT A LETTER LAST WEEK TO THE
17 OPERATORS OF THOSE JURISDICTIONS AND HAVE INCLUDED
18 THE REGULATION PACKAGE FOR THEM FOR THEIR INPUT
19 INTO THIS PROCESS.

20 MS. RICE: THE AMOUNT OF THESE GRANTS IS
21 NOT SIGNIFICANT, SO WE ARE NOT ASSUMING THERE WOULD
22 BE A SIGNIFICANT IMPACT, JUST THAT WE SHOULD
23 NOTIFY, CLEARLY, THE JURISDICTIONS AND THE
24 OPERATORS AFFECTED SO THAT THEY CAN BE PART OF THE

25 COMMENT PERIOD ON THIS RULEMAKING.

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1 CHAIRMAN FRAZEE: QUESTIONS? DISCUSSION
2 ON THIS ITEM? IF NOT, WE HAVE A STAFF RECOMMENDA-
3 TION TO APPROVE THE FORMAL NOTICE OF THE PROPOSED
4 REGULATIONS WITH THE OFFICE OF ADMINISTRATIVE LAW.

5 MEMBER RELIS: MR. CHAIR, I'LL MOVE THE
6 STAFF RECOMMENDATION.

7 MEMBER JONES: I'LL SECOND.

8 CHAIRMAN FRAZEE: WE HAVE A MOTION AND
9 SECOND. SECRETARY CALL THE ROLL ON THAT, PLEASE.

10 THE SECRETARY: BOARD MEMBER RELIS.

11 MEMBER RELIS: AYE.

12 THE SECRETARY: BOARD MEMBER JONES.

13 MEMBER JONES: AYE.

14 THE SECRETARY: CHAIRMAN FRAZEE.

15 CHAIRMAN FRAZEE: AYE. MOTION IS CARRIED,
16 AND THIS ITEM DOES NOT NEED TO GO TO THE FULL
17 BOARD.

18 MS. RICE: CORRECT.

19 CHAIRMAN FRAZEE: CORRECT ON THAT? OKAY.

20 NOW, AGENDA ITEM 13 IS THE CONSIDERA-
21 TION OF SITES FOR REMEDIATION UNDER THE WASTE TIRE
22 STABILIZATION AND ABATEMENT PROGRAM.

23 MS. RICE: THANK YOU, MR. CHAIRMAN. GALE
24 REHBERG WILL MAKE THE STAFF PRESENTATION.

25

MS. REHBERG: GOOD MORNING. IN THIS

34

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1 AGENDA ITEM STAFF IS PRESENTING THREE WASTE TIRE
2 SITES FOR REMEDIATION UNDER THE WASTE TIRE
3 STABILIZATION AND ABATEMENT PROGRAM. THE PUBLIC
4 RESOURCES CODE AUTHORIZES THE BOARD TO EXPEND MONEY
5 FROM THE CALIFORNIA TIRE RECYCLING MANAGEMENT FUND
6 TO PERFORM ANY CLEANUP, ABATEMENT, OR REMEDIAL WORK
7 REQUIRED TO PREVENT SUBSTANTIAL POLLUTION,
8 NUISANCE, INJURY TO THE PUBLIC HEALTH AND SAFETY.

9 I WILL BRIEFLY DESCRIBE THE THREE
10 SITES. THE FIRST SITE IS IN AMADOR COUNTY, AND
11 IT'S REFERRED AS FINE AND SONS WASTE TIRE SITE.
12 THIS SITE IS BASICALLY AN AUTO DISMANTLER THAT
13 OPERATES ON 5 ACRES OF LAND.

14 THE WAY THE TIRES ACCUMULATED ON THIS
15 SITE IS THE AUTO DISMANTLER LET ANOTHER INDIVIDUAL
16 BRING TIRES ON SITE AND TEMPORARILY STORE THEM
17 THERE AND WITH THE AGREEMENT THAT THE TIRES WOULD
18 BE REMOVED.

19 WELL, THE INDIVIDUAL DID NOT REMOVE
20 THE TIRES, AND THE TIRES ARE REMAINING ON THE AUTO
21 DISMANTLER'S PROPERTY.

22 THE SECOND AND THIRD SITE, ACTUALLY
23 WE CALL IT TWO SITES BECAUSE THERE ARE TWO
24 DIFFERENT PROPERTY OWNERS, BUT IT'S ACTUALLY ONE

25 LARGE PILE OF TIRES SPREAD OVER THE TWO PROPERTIES.
 35

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1 IT IS IN THE SAN BERNARDINO COUNTY, SPECIFICALLY IN
2 THE CITY OF SAN BERNARDINO. THERE ARE ABOUT 8,000
3 TIRES SPREAD OUT, COMMINGLED WITH OTHER TYPES OF
4 FLAMMABLE DEBRIS ON BOTH OF THESE PROPERTIES.

5 STAFF HAS BEEN UNABLE TO DETERMINE
6 THE SOURCE OF THESE TIRES OR WHO THE RESPONSIBLE
7 PARTY IS. BOTH PROPERTY OWNERS HAVE FAILED TO
8 REMOVE THE TIRES AS REQUESTED BY THE BOARD.

9 STAFF HAS INVESTIGATED ALL THREE
10 SITES AND DETERMINED THAT ABATEMENT IS NEEDED TO
11 PROTECT THE PUBLIC'S HEALTH AND SAFETY AND ALSO THE
12 ENVIRONMENT. THESE WASTE TIRE SITES POSE A THREAT
13 TO NEARBY RESIDENCES, BUSINESSES, AND ALSO ON ONE
14 OF THE SITES THERE'S AN ELEMENTARY SCHOOL DIRECTLY
15 BEHIND A PILE OF ABOUT 5,000 TIRES.

16 CEQA COMPLIANCE FOR EACH SITE WILL BE
17 ACHIEVED BY FILING A NOTICE OF EXEMPTION UTILIZING
18 A CLASS 8 CATEGORICAL EXEMPTION AFTER THE BOARD
19 MAKES ITS DECISION ON THIS ITEM.

20 STAFF IS RECOMMENDING ADOPTION OF
21 RESOLUTION 97-420, APPROVING THESE SITES FOR
22 REMEDIATION UNDER THE WASTE TIRE STABILIZATION AND
23 ABATEMENT PROGRAM.

24 THE COMMITTEE CAN APPROVE THE SITES
25 AS RECOMMENDED BY STAFF, DISAPPROVE EACH SITE OR
36

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1 ALL THREE SITES, OR DIRECT STAFF TO PROVIDE
2 ADDITIONAL INFORMATION REGARDING THE SITES AND
3 BRING THE ITEM BACK AT A FUTURE MEETING.

4 THIS CONCLUDES MY PRESENTATION, AND
5 STAFF'S AVAILABLE TO ANSWER ANY QUESTIONS YOU MAY
6 HAVE.

7 CHAIRMAN FRAZEE: OKAY.

8 MEMBER JONES: MR. CHAIRMAN, I DON'T HAVE
9 ANY PROBLEM WITH SOUTH VALLEY VIEW ONE AND TWO, BUT
10 I'M WONDERING IS ANYBODY HERE FROM AMADOR COUNTY
11 FROM FINE AND SONS? OKAY. I GOT AN E-MAIL FROM
12 KEITH, THAT -- KEITH CAMBRIDGE THAT DESCRIBED THE
13 ENFORCEMENT ACTION AND THE FACT THAT THE OPERATOR
14 BROUGHT IN MORE TIRES WHEN HE WASN'T SUPPOSED TO.
15 AND NOW KEITH'S TALKED TO THE DISTRICT ATTORNEY
16 ABOUT PROBATION AND THOSE TYPES OF THINGS.

17 I THINK THAT THIS BOARD MEMBER, AS
18 LONG AS WE ARE TAKING ACTION, THAT THE SITUATION
19 DOESN'T CONTINUE BECAUSE IT'S AN ONGOING BUSINESS
20 THAT IS BREAKING THE RULES. AND IF WE'RE GOING TO
21 JUST CLEAN UP HIS YARD AND GIVE HIM MORE ROOM TO
22 KEEP BREAKING THE RULES, THEN I HAVE A PROBLEM WITH
23 THAT; BUT IF WE ARE GOING TO TAKE ACTION AND
24 CONTINUE TO KEEP PRESSURE ON AMADOR COUNTY'S LEA TO

25 MAKE SURE THAT THIS DOESN'T EXIST, THEN I THINK
 37

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1 THAT TAKES CARE OF A LOT OF MY RESERVATIONS.

2 I KNOW IN MY BRIEFING I WAS -- HAD A
3 LOT OF QUESTIONS ABOUT THE FINE AND SONS. I DIDN'T
4 UNDERSTAND HOW ALL THIS STUFF WORKS.

5 MS. REHBERG: PART OF OUR ENFORCEMENT
6 PROCESS ON THIS PARTICULAR SITE INCLUDED AN
7 ADMINISTRATIVE COMPLAINT BEING FILED, AND AN
8 ADMINISTRATIVE HEARING WAS HELD IN EARLY JULY
9 AGAINST THE OPERATOR AND THE RESPONSIBLE -- AGAINST
10 THE PROPERTY OWNER AND THE RESPONSIBLE PARTY.

11 AND WHAT HAPPENED AT THAT HEARING IS
12 THE JUDGE DID IMPOSE A \$9,000 FINE AGAINST EACH
13 PARTY, BUT DID, AT THE REQUEST OF THE PROPERTY
14 OWNER, GRANT AN ADDITIONAL 60-DAY PERIOD FOR THEM
15 TO MAKE ANOTHER ATTEMPT TO REMOVE THE TIRES.

16 SO THE FINE WAS JUST RECENTLY IMPOSED
17 THE FIRST WEEK OF SEPTEMBER BECAUSE THEY FAILED TO
18 REMOVE THE TIRES BY AUGUST 31ST. AND I VISITED
19 THIS SITE LAST FRIDAY AFTERNOON JUST TO MAKE SURE
20 THAT -- TO DETERMINE WHETHER THE TIRES WERE THERE
21 OR NOT, AND THEY ARE STILL PRESENT.

22 MEMBER JONES: NOW, WOULD WE -- ARE WE
23 GOING TO MAKE SURE THAT THE ENFORCEMENT -- I MEAN I

24 DON'T KNOW WHAT OUR ROLE IS IN THIS THING. EITHER
25 WE GET COST RECOVERY OR WHATEVER, BUT I LOOK AT --

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1 I LOOKED AT THE PICTURES OF THIS SITE, AND I THINK
2 THE OTHER BOARD MEMBERS. THESE TIRES HAVE BEEN
3 BAGELED. THESE TIRES HAVE BEEN SPLIT AND CAN BE
4 BROUGHT TO A LANDFILL. AND THE LANDFILL IS THREE
5 MILES AWAY FROM THIS FACILITY AND HAS ONE OF THE
6 LOWER DISPOSAL RATES IN THE FOOTHILLS. SO IT'S
7 PRETTY OBVIOUS THAT SOMETHING IS STRANGE HERE, BUT
8 I DO THINK THERE'S A HEALTH AND SAFETY RISK. IF
9 NOTHING ELSE, OUR COSTS ARE A LITTLE BIT DOWN
10 BECAUSE OF THE BAGELED TIRES.

11 MS. REHBERG: WELL, YOU KNOW, DURING THE
12 60-DAY PERIOD, HE DID REMOVE SOME TIRES, AND HE DID
13 CHOOSE TO REMOVE THE BAGELED TIRES AND THE SPLIT
14 TIRES, AND HE LEFT US THE WHOLE TIRES, THE TIRES ON
15 RIMS, AND THE OTR'S.

16 MEMBER JONES: AMAZING. WELL, WE DO
17 ALWAYS HAVE COST RECOVERY AS AN ISSUE.

18 MS. TOBIAS: AND I WILL SAY ON THE COST
19 RECOVERY, THAT SHOULD THEY NOT PAY THE FINE WHICH
20 HAS NOW BEEN IMPOSED, WE WILL BE TAKING IT TO
21 SUPERIOR COURT AND CONVERTING IT INTO A JUDGMENT
22 AGAINST THESE PARTIES, IN WHICH CASE AT THAT TIME,
23 IF THEY DON'T PAY THOSE COSTS, WE'LL EITHER LIEN

24 THE PROPERTY OR FOLLOW UP ON OTHER WAYS OF
25 RECOVERING THAT MONEY.

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1 MEMBER JONES: GREAT.

2 MEMBER RELIS: I JUST HAVE A GENERAL
3 COMMENT BEFORE WE VOTE ON THIS.

4 YESTERDAY WE TOOK UP THE TIRE ISSUE
5 FROM ANOTHER VANTAGE, THE INCINERATION OF TIRES AND
6 OUR POSITION REGARDING THAT. I CAME ACROSS IN THE
7 STAFF ANALYSIS ON THAT ITEM -- I JUST WANTED TO
8 OBSERVE AGAIN THAT WE'RE STILL IN -- SPITE OF OUR
9 GOOD EFFORTS, WE'RE STILL IN APPROXIMATELY A
10 14-MILLION TON TIRE PER YEAR DEFICIT. SO THESE
11 CLEANUP EFFORTS, REMEDIATION EFFORTS, WE'RE
12 ALWAYS -- I FEEL LIKE PROBABLY MANY OF YOU ARE
13 FAMILIAR WITH THE MYTH OF SISYPHUS. AND, YOU KNOW,
14 WE NEVER SEEM TO GET TO THE TOP OF THIS HILL.

15 WE'RE INCURRING, BASED ON THE CLEANUP
16 COST TO DATE AN ONGOING LIABILITY, ASSUMING THESE
17 TIRES END UP IN VARYING PILES, AND THE ONES THAT
18 DON'T GET PROPERLY DEALT WITH AT ABOUT A \$15
19 MILLION LIABILITY A YEAR AGAINST OUR PALTRY AMOUNT
20 TO CLEAN IT UP.

21 SO WHILE I AM ENCOURAGED THAT WE MAKE
22 PROGRESS, WE STILL HAVE AN ENORMOUS GAP IN THIS
23 STATE, AND THIS DEBT IS A BIG ONE AND IT'S ANNUAL.

24 SO -- BUT I'LL SUPPORT THIS REMEDIATION EFFORT FOR
25 THE THREE SITES, MR. JONES.

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1 MEMBER JONES: IF THAT WAS A MOTION, THEN
2 I'LL SECOND IT.

3 MEMBER RELIS: YES, IT IS.

4 CHAIRMAN FRAZEE: WE HAVE A MOTION AND
5 SECOND ON THE ADOPTION OF RESOLUTION 97-420,
6 APPROVAL OF SITES FOR REMEDIATION UNDER THE WASTE
7 TIRE STABILIZATION AND ABATEMENT PROGRAM.
8 SECRETARY WILL CALL THE ROLL ON THAT ONE, PLEASE.

9 THE SECRETARY: BOARD MEMBER RELIS.

10 MEMBER RELIS: AYE.

11 THE SECRETARY: BOARD MEMBER JONES.

12 MEMBER JONES: AYE.

13 THE SECRETARY: CHAIRMAN FRAZEE.

14 CHAIRMAN FRAZEE: AYE. MOTION IS CARRIED;
15 AND WITHOUT OBJECTION, WE'LL RECOMMEND THIS ONE FOR
16 THE CONSENT CALENDAR TO THE FULL BOARD.

17 WE HAVE A REQUEST FOR A BREAK AT THIS
18 POINT. LET'S TAKE ABOUT TEN MINUTES, RECONVENE AT
19 10:30.

20 (RECESS TAKEN.)

21 CHAIRMAN FRAZEE: MEETING WILL COME TO
22 ORDER AGAIN, PLEASE. WE'RE READY TO PROCEED WITH
23 AGENDA ITEM 14, THE CONSIDERATION OF NEW SITE FOR
24 THE SOLID WASTE DISPOSAL AND CODISPOSAL SITE

25

CLEANUP PROGRAM.

41

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1 MS. RICE: THANK YOU. MARGE ROUCH WILL
2 MAKE THIS PRESENTATION.

3 MS. ROUCH: GOOD MORNING, CHAIRMAN FRAZEE
4 AND COMMITTEE MEMBERS. IN JULY OF THIS YEAR, THE
5 2636 CLEANUP PROGRAM STAFF BROUGHT AN ALLOCATION
6 ITEM FOR YOUR CONSIDERATION. AS A PART OF THAT
7 ITEM, WE ATTACHED AN UPDATED VERSION OF OUR SITES
8 LIST. THE LIST HAS BEEN REVISED BASED ON INPUT
9 FROM CLOSURE BRANCH STAFF WORKING WITH SOME OF THE
10 LEA'S.

11 THE MOBILE DEBRIS BOX SERVICE SITE
12 WAS NOT ON THE LIST. ON AUGUST 5TH I SENT A LETTER
13 TO EACH LEA JURISDICTION REQUESTING THEIR INPUT TO
14 THE SITE LIST. THE LETTER ASKED THAT THEY ADD
15 SITES WHICH MIGHT BE CONSIDERED FOR FUNDING, DELETE
16 SITES THAT ARE NOT A THREAT OR DO NOT EXIST.

17 AS A RESPONSE TO THAT LETTER, MR.
18 HENRY LOUIE, CITY OF SAN FRANCISCO LEA, ASKED IF WE
19 WOULD CONSIDER TODAY'S SITE. THE OPERATOR OF THIS
20 SITE IS OPERATING AN ILLEGAL DISPOSAL SITE. THE
21 MODE OF OPERATION OF THE SITE OPERATOR IS TO SET UP
22 HIS BUSINESS AT A SITE AND THEN PROCEED TO FILL
23 THE PROPERTY WITH TRASH AND DEBRIS AS HE PROCESSES
24 THE MATERIAL HE BRINGS IN.

25

STAFF ESTIMATES THERE ARE SEVERAL
42

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1 THOUSAND CUBIC YARDS OF SOLID WASTE ACCUMULATED AT
2 THE SITE. CONDITIONS AT THE SITE PROMOTE FURTHER
3 ILLEGAL DUMPING BY OTHERS.

4 THE LEA HAS TAKEN MANY ENFORCEMENT
5 ACTIONS AGAINST THE OWNER AND OPERATOR TO SECURE
6 COMPLIANCE, WHICH THE OWNER AND OPERATOR HAVE
7 IGNORED TO DATE. THE OWNER AND OPERATOR HAVE BEEN
8 SERVED WITH A COMPLAINT AND A COURT DATE IS
9 PENDING.

10 AS THE AGENDA ITEM STATES, STAFF
11 RECOMMEND FUNDING THIS PROJECT AS A BOARD-MANAGED
12 CLEANUP CONTINGENT ON THE OWNER AND OPERATOR
13 FAILING TO COMPLY WITH ANTICIPATED ORDERS COMING
14 FROM THE UPCOMING COURT ACTION.

15 MR. HENRY LOUIE OF THE BUREAU OF
16 HEALTH MANAGEMENT AND THE OWNER OF THE PROPERTY,
17 MR. REGINALD RICCI, ARE PRESENT TO ANSWER ANY
18 QUESTIONS.

19 CHAIRMAN FRAZEE: OKAY. LET'S HEAR FROM
20 THE LEA, HENRY LOUIE.

21 MR. LOUIE: CHAIRMAN FRAZEE AND MEMBERS OF
22 THE PERMITTING AND ENFORCEMENT COMMITTEE, I'M HENRY
23 LOUIE. I'M WITH THE SAN FRANCISCO DEPARTMENT OF

24 PUBLIC HEALTH, LOCAL ENFORCEMENT AGENCY. ON BEHALF
25 OF THE LOCAL ENFORCEMENT AGENCY, I WANT TO THANK

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1 THE BOARD FOR TAKING THIS ITEM UP FOR CONSIDERATION
2 THIS MORNING.

3 I HAVE SOME MATERIAL HERE THAT MIGHT
4 ANSWER SOME QUESTIONS THAT SOME OF YOU MAY HAVE
5 WITH REGARDS TO THIS REQUEST. IF I MAY, I'D LIKE
6 TO HAND THEM OUT TO THE BOARD MEMBERS.

7 I UNDERSTAND THAT THERE MAY BE SOME
8 QUESTIONS WITH REGARDS TO THE ENFORCEMENT ACTION
9 THAT THE SAN FRANCISCO LEA HAS TAKEN WITH RESPECT
10 TO THE MOBILE DEBRIS SITE. IN THE PACKAGE THAT YOU
11 JUST RECEIVED, WHAT YOU HAVE IS A CHRONOLOGY AND
12 OVERVIEW OF THE SAN FRANCISCO ENFORCEMENT ACTION
13 EFFORTS. AND THEN THE SECOND DOCUMENT THERE IS A
14 LETTER FROM THE SAN FRANCISCO LEA TO THE 2636
15 PROGRAM REQUESTING 2136 ASSISTANCE.

16 THE THIRD DOCUMENT IS A COPY OF A
17 COMPLAINT THAT THE CITY AND COUNTY OF SAN FRANCISCO
18 RECENTLY FILED IN SUPERIOR COURT AGAINST THE
19 OPERATOR OF THIS BUSINESS, MR. DENNIS WEBB, AND THE
20 PROPERTY OWNER, MR. REGINALD RICCI.

21 AND THEN FINALLY, THE FOURTH DOCUMENT
22 IS A COPY OF THE NOTICE AND ORDER FOR COMPLIANCE
23 THAT WAS SERVED TO THE OPERATOR AND THE PROPERTY
24 OWNER.

I THOUGHT MAYBE WHAT I COULD DO IS TO
44

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1 PROVIDE A BRIEF OVERVIEW OF SOME OF OUR ENFORCEMENT
2 EFFORTS BECAUSE, AS I UNDERSTAND IT, THERE HAS BEEN
3 SOME QUESTIONS AS TO WHETHER OR NOT THE CITY AND
4 COUNTY OF SAN FRANCISCO HAS EXPENDED SUFFICIENT AND
5 SIGNIFICANT ENFORCEMENT EFFORTS. IF YOU LOOK AT
6 THE VERY FIRST DOCUMENT THAT'S DATED SEPTEMBER THE
7 12TH, IT IS FROM ME TO THE INTEGRATED WASTE
8 MANAGEMENT BOARD. AND IT'S ENTITLED "A CHRONOLOGY
9 OF LEA ENFORCEMENT ACTIVITIES."

10 ON PAGE 2 OF THIS DOCUMENT, I'VE
11 HIGHLIGHTED AND LISTED SIGNIFICANT ENFORCEMENT
12 EFFORTS. AND WHILE IT CERTAINLY WOULD NOT HAVE
13 BEEN PRACTICAL FOR ME TO LIST EVERYTHING THAT WE'VE
14 DONE, WHAT I'VE DONE IS IDENTIFIED 12 SIGNIFICANT
15 ACTIONS THAT THE LEA HAS TAKEN SINCE WE LEARNED OF
16 THIS ILLEGAL ACTIVITY IN LATE 1996.

17 WHEN WE FIRST LEARNED OF THIS
18 ACTIVITY IN LATE 1996, WE SENT A COUPLE LETTERS OUT
19 TO BOTH THE OPERATOR AND THE LANDLORD, SAYING THAT
20 THERE IS AN ILLEGAL ACTIVITY BEING CONDUCTED THERE
21 AND THAT WE HAD ASKED THAT THE OPERATOR CEASE AND
22 DESIST FROM THOSE OPERATIONS.

23 AND THEREAFTER WE HAD SENT MR. RICCI
24 A NOTICE ON MAY THE 7TH. A COUPLE WEEKS AFTER

25 THAT, ITEM NO. 4, WE ISSUED A CITATION TO MR.
45

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1 RICCI, THE PROPERTY OWNER, TO APPEAR AT A
2 DEPARTMENT OF PUBLIC HEALTH HEARING AND FOR HIM TO
3 SHOW CAUSE AS TO WHY HE HAD FAILED TO COMPLY WITH
4 OUR ENFORCEMENT EFFORTS.

5 AND THEN GOING DOWN THE ENFORCEMENT
6 ROSTER HERE, WE SERVED A NOTICE AND ORDER MAY THE
7 23D FOLLOWED BY THE HEARING. AND ULTIMATELY ON
8 AUGUST THE 29TH, WE FILED THROUGH OUR OFFICE OF
9 CITY ATTORNEY A COMPLAINT IN SUPERIOR COURT.

10 IT IS OUR OPINION THAT BECAUSE OF THE
11 RECALCITRANCE ON BOTH THE PART OF THE OPERATOR AND
12 THE PROPERTY OWNER, THAT IN THE ABSENCE OF THE
13 INTEGRATED WASTE MANAGEMENT BOARD SUPPORT, THAT IS
14 A BOARD-MANAGED CLEANUP, THAT THIS SITE WILL BE AN
15 INCREASING THREAT TO THE PUBLIC HEALTH AND SAFETY
16 OF THAT NEIGHBORING COMMUNITY.

17 I UNDERSTAND TOO THAT THERE WAS ALSO
18 SOME CONCERN ABOUT WHETHER OR NOT THE CITY WAS
19 COMMITTED TO COST RECOVERY. AND I DID, I THINK,
20 TRY TO ADDRESS THAT IN MY LETTER THAT'S DATED
21 AUGUST 27TH TO MR. WES MINDERMAN OF THE 2136
22 PROGRAM.

23 IN THAT LETTER I DESCRIBE BRIEFLY THE
24 SITE AND THEN TRIED TO AGAIN HIGHLIGHT SOME OF OUR

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1 PARAGRAPH ON PAGE 2 OF THAT LETTER, WITH RESPECT TO
2 COST RECOVERY, I DID STATE AT THAT TIME AND I WILL
3 AGAIN REITERATE NOW THAT THE CITY, IF NECESSARY,
4 WILL, WITH THE COOPERATION OF OUR CITY ATTORNEY,
5 ASSIST THE BOARD IN WHATEVER WAY POSSIBLE TO
6 RECOVER FROM THE RESPONDENTS IN THIS CASE, MR. WEBB
7 AND MR. RICCI, ANY COSTS ASSOCIATED WITH BOARD
8 REMEDIAL EFFORTS.

9 AND WE BELIEVE THAT THIS CLEANUP WILL
10 ABATE A NUISANCE THAT PRESENTS A THREAT TO THE
11 HEALTH AND SAFETY OF THAT COMMUNITY AND TO THE
12 ENVIRONMENT.

13 WITH RESPECT TO JUST WHAT COURSE OF
14 RELIEF WE ARE ASKING IN SUPERIOR COURT, I DO
15 UNDERSTAND THAT COST RECOVERY IS AN ISSUE. THERE
16 IS ALSO ISSUES OF ACCOUNTABILITY; AND THAT IS, WILL
17 THE RESPONSIBLE PARTIES BE HELD ACCOUNTABLE. AND
18 IT IS CERTAINLY OUR INTENT TO DO JUST THAT. AND
19 THE COMPLAINT ADDRESSES THAT IN OUR REQUEST
20 FOR
20 RELIEF.

21 IF YOU WILL TURN TO THE
COMPLAINT ON

22 PAGE 5 OF THAT COMPLAINT, BEGINNING WITH THE

23 PARAGRAPH THAT SAYS "REQUEST FOR JURY TRIAL,"
WE
24 HAD IDENTIFIED, I BELIEVE, TEN -- ACTUALLY A
DOZEN
25 REQUESTS OF THE SUPERIOR COURT. AND THESE
ITEMS

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1 INCLUDE THAT THE NUISANCE BE ABATED, THAT THE
2 DEFENDANTS BE ENJOINED AND RESTRAINED FROM
3 MAINTAINING OR PERMITTING THE CONDITIONS AS
4 DESCRIBED IN THIS COMPLAINT, AND THAT WE HAVE ASKED
5 THAT THE DEFENDANTS VACATE THE PREMISES AND BE
6 RESTRAINED AND ENJOINED FROM ENGAGING AND
7 CONTINUING ENGAGEMENT OF ILLEGAL ACTIVITIES.

8 WE'VE ASKED THAT THE DEFENDANTS --
9 THAT A LIEN SHALL BE PLACED UPON THESE PREMISES FOR
10 OUR ENFORCEMENT EFFORTS. WE ALSO HAVE IDENTIFIED
11 OR ARE MAKING REQUEST FOR CIVIL PENALTIES, CIVIL
12 PENALTIES IN VIOLATION OF THIS SAN FRANCISCO
13 PLANNING CODE, PENALTIES FOR VIOLATION OF THE
14 BUSINESS AND PROFESSIONS CODE IN TERMS OF UNFAIR
15 BUSINESS PRACTICES AND FRAUDULENT PRACTICES.

16 WE'RE ASKING FOR PENALTIES OF --
17 CIVIL PENALTIES FOR VIOLATION OF THE PUBLIC
18 RESOURCES CODE. AND, OF COURSE, WE ARE ASKING
THAT

19 WE BE AWARDED ATTORNEY FEES PURSUANT TO THE
HEALTH
20 AND SAFETY CODE.

21 SO WITH THAT, I THINK WE'VE

22 DEMONSTRATED, I BELIEVE, A GOOD FAITH EFFORT IN
23 TRYING TO REMEDIATE THIS SITE. WHAT WE ARE
24 REQUESTING IS A BOARD-SUPPORTED CLEANUP, AND
WE'RE
25 NOT ASKING FOR A GRANT. WE'RE NOT ASKING FOR A

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1 LOAN. WHAT WE RECOGNIZE IS THAT THIS SITE IS A
2 SITE THAT PRESENTS A THREAT TO PUBLIC HEALTH AND
3 SAFETY AND THAT THE MOST EXPEDITIOUS WAY OF
4 REMEDIATING THE SITE AND THE MOST EFFICIENT WAY OF
5 REMEDIATING THE SITE IS THROUGH WHAT I BELIEVE A
6 BOARD-SPONSORED CLEANUP.

7 WITH THAT SAID, I WILL ENTERTAIN ANY
8 QUESTIONS THAT YOU MIGHT HAVE.

9 CHAIRMAN FRAZEE: QUESTIONS?

10 MEMBER JONES: I HAVE A FEW. ON THE
11 NOTICE AND ORDER COMPLIANCE, THE LAST PART THAT YOU
12 BROUGHT OUT OR THAT WAS PART OF THE PACKAGE THAT WE
13 GOT REGARDING THIS, YOU IDENTIFIED THREE OR FOUR
14 ADDRESSES. 1300 YOSEMITE, WHICH IS WHAT WE'RE
15 TALKING ABOUT TODAY, CORRECT?

16 MR. LOUIE: THAT'S RIGHT.

17 MEMBER JONES: 1212 THOMAS AVENUE WHERE
18 THIS OPERATION TOOK PLACE, AND I'M SURE YOU HAD A
19 CLEANUP ISSUE THERE, AND THEN 1300 CARROLL AVENUE.

20 MR. LOUIE: YES.

21 MEMBER JONES: NOW, THAT'S IN SAN
22 FRANCISCO. DID IT LIST THE ONES -- OH, YEAH. YOU
23 GOT SAN MATEO COUNTY. YOU'VE GOT THE SAN MATEO
24 ONE. BECAUSE I HAVE -- AS EVERYBODY THAT WAS IN MY

25

BRIEFING KNOWS, I HAD SOME QUESTIONS ABOUT THIS

49

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1 BECAUSE IT'S BEEN AN ONGOING, QUOTE, UNQUOTE,
2 RECYCLING FACILITY THAT NOW HAS BEEN -- IT'S A DUMP
3 THAT WE HAVE TO CLEAN UP.

4 WE'RE GOING TO -- I THINK THAT THIS
5 ITEM IS MORE IMPORTANT THAN JUST THE CLEANUP OF THE
6 HEALTH AND SAFETY AT THIS LOCATION. I THINK THAT
7 LEA'S THAT ARE IN THIS AUDIENCE TODAY AND THOSE
8 THAT ARE GOING GET REPORTED BACK TO WHO -- ARE
9 GOING TO WANT TO SEE WHAT THIS BOARD IS GOING TO DO
10 ON THIS CASE BECAUSE THEY HAVE AN ISSUE COMING UP
11 LATER WHEN WE TALK ABOUT TRANSFER STATION REGS.
12 AND I THINK THEY'RE KIND OF LOOKING TO SEE WHAT
13 WE'RE GOING TO DO.

14 A LOT OF THE STATEMENTS THAT MR.
15 LOUIE MADE ABOUT A LOAN OR A GRANT PROBABLY CAME
16 FROM SOME OF MY QUESTIONS ABOUT HOW DO WE TAKE CARE
17 OF THE PROBLEM. I WANT TO CLEAN UP THE MESS, BUT I
18 WANT TO MAKE SURE THAT THE MESS DOESN'T CONTINUE OR
19 GET MOVED TO ANOTHER LOCATION IN SAN FRANCISCO.

20 I KNOW THAT THESE -- IT'S VERY HARD
21 FOR AN LEA OR FOR STATE STAFF TO ENFORCE ON
22 SOMETHING LIKE THIS TO THE POINT THAT I THINK IF
23 YOU LOOK AT THE DEBRIS BOXES THAT THIS OPERATION
24 USES -- WHAT COLOR ARE THEY?

25

MR. LOUIE: THEY'RE GRAY, SIR.
50

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1 MEMBER JONES: WHAT COLOR ARE THE
2 PERMITTED OPERATORS IN THAT CITY OF SAN FRANCISCO?

3 MR. LOUIE: THE BOXES ARE CLEVERLY
4 DISGUISED TO LOOK LIKE THE BOXES OF THE PERMITTED
5 OPERATORS.

6 MEMBER JONES: YEAH. AND I MEAN SO THIS
7 IS MORE THAN JUST DEALING WITH THE CLEANING UP OF A
8 FACILITY. WE'VE GOT A LOT OF PEOPLE THAT ARE GOING
9 TO SIT HERE TODAY AND TALK ABOUT RECYCLING CENTERS,
10 AND, YOU KNOW, HOW MUCH JURISDICTION SHOULD AN LEA
11 OR STATE BOARD HAVE IN MAKING SURE THAT THEY LIVE
12 TO THE SAME STANDARD THAT ANY OTHER REGULATED
13 FACILITY LIVES UNDER.

14 MY QUESTIONS OR CONCERNS WOULD BE IF
15 THE STATE TOOK TAXPAYER DOLLAR OR TOOK RATEPAYER
16 DOLLAR AND PAID FOR THIS, YOU INDICATED THE CITY
17 WOULD STAY ON TOP OF THIS SITUATION.

18 MR. LOUIE: THAT IS TRUE, SIR.

19 MEMBER JONES: AND WHAT I'D LIKE --
20 WHENEVER WE -- AFTER WE GET THROUGH WITH THIS
21 DISCUSSION, MY SUGGESTION IS GOING TO BE THAT SOME
22 CONDITIONS BE ATTACHED IN THE FORM OF A LETTER FROM
23 WASTE BOARD STAFF SAYING THAT WE WANT THE CITY TO
24 STAY INVOLVED IN THIS, WANT THEM TO STAY INVOLVED

25

IN FULFILLING THIS ACTION THAT THEY'RE TRYING TO

51

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1 TAKE IN COURT.

2 THE OTHER THING THAT I'D LIKE TO
3 BRING UP IS THAT -- AND I'M NOT A LAWYER. I'M NOT
4 SURE HOW THESE THINGS WORK -- BUT IF IN THE COURSE
5 OF THE STATE CONTRACTOR CLEANING UP THIS FACILITY,
6 THEY UNEARTH HAZARDOUS WASTE, DOESN'T THAT TAKE
7 THIS INTO A WHOLE NOTHER REALM OF CRIMINAL ACTIVITY
8 FOR THE TRANSPORTATION AND STORAGE OF HAZARDOUS
9 WASTE ILLEGALLY.

10 IF IT DOES, I WOULD HOPE THAT THE
11 CITY WOULD FOLLOW THAT STRAIN TO MAKE SURE THAT
12 THESE KINDS OF ACTIONS HAVE THE RIGHT KIND OF
13 REACTION BECAUSE IT'S THE TAXPAYERS OF CALIFORNIA
14 THAT ARE PAYING FOR THIS CLEANUP. AND I JUST DON'T
15 THINK IT SHOULD BE AN OPEN BOOK. I THINK IT NEEDS
16 TO HAVE FINALITY, AND THE FINALITY NEEDS TO DEAL
17 WITH THE CAUSE OF THE PROBLEM.

18 MEMBER RELIS: MR. CHAIR, JUST A
19 QUESTION. DOES MOBILE DEBRIS, DO THEY HAVE A
20 LICENSE TO DO BUSINESS IN THE CITY?

21 MR. LOUIE: NO, THEY DO NOT. MOBILE
22 DEBRIS IS TRULY ONE OF THOSE OPERATORS THAT COULD
23 BE CHARACTERIZED AS A BAD ACTOR. APPARENTLY HE IS
24 NOT ONLY IN VIOLATION OF STATE AND LOCAL REGS WITH

25 REGARDS TO SOLID WASTE, HE DOES NOT HAVE A CURRENT
52

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1 BUSINESS PERMIT. HE DOES NOT -- HE'S IN ARREARS IN
2 HIS BUSINESS TAXES. HE'S -- IN THE COURSE OF HIS
3 OPERATIONS IN SAN FRANCISCO HE'S INCURRED ABOUT
4 \$7,000 OF FINES FROM THE DEPARTMENT OF PUBLIC WORKS
5 FOR PLACING BOXES IN PUBLIC THOROUGHFARE WITHOUT
6 THE PROPER PERMITS.

7 THIS IS SOMEBODY WHO JUST HAS NOT --
8 WHO'S BEEN RECALCITRANT AND WHO IS ESSENTIALLY
9 OPERATING IN A WAY THAT -- IN A MANNER THAT THUMBS
10 ITS NOSE AT AUTHORITY, IF I CAN SAY THAT.

11 UNFORTUNATELY, AND I DO SHARE THE
12 BOARD'S CONCERN; THAT IS, THAT THIS IS AN
13 INDIVIDUAL WHOM APPARENTLY HAS HAD A HISTORY OF
14 CONDUCTING THESE KINDS OF ILLEGAL OPERATION. I'VE
15 TRIED TO KIND OF OUTLINE THAT IN THE NOTICE AND
16 ORDER. HE WAS IN SAN MATEO COUNTY. HE APPARENTLY
17 HAD OPERATED IN SAN MATEO COUNTY AT A COUPLE OF
18 DIFFERENT LOCATIONS. HE WAS CHASED OUT OF SAN
19 MATEO COUNTY BY THE SAN MATEO COUNTY LEA, CAME INTO
20 SAN FRANCISCO ABOUT TWO YEARS AGO, AND OPERATED A
21 COUPLE OF ESTABLISHMENTS, WHICH WE HAVE CHASED HIM
22 OUT OF. AND HE'S FOUND A HOME HERE AT THE YOSEMITE
23 STREET SITE.

UNFORTUNATELY, I THINK THAT OUR HANDS

ARE SOMEWHAT TIED IN THAT INASMUCH AS I WOULD LOVE

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1 TO PURSUE CRIMINAL PENALTIES AGAINST THE OPERATOR
2 HERE, THE PROVISIONS ARE SUCH THAT THE LAWS PROVIDE
3 FOR CIVIL PENALTIES AND, THEREFORE, WE NEED TO
4 PURSUE IT CIVILLY, AS WE HAVE BEEN DOING.

5 BUT NEVERTHELESS, WITH RESPECT TO
6 SOME OF THE CRIMINAL VIOLATIONS, THERE ARE SOME
7 CRIMINAL VIOLATIONS OF LOCAL REGULATIONS, AND THEY
8 HAPPEN TO BE MISDEMEANOR VIOLATIONS. I'VE TAKEN IT
9 BEFORE OUR DISTRICT ATTORNEY'S OFFICE, WHO SIMPLY
10 HAS SAID THAT FOR MISDEMEANOR VIOLATIONS, HE IS
11 GOING TO BE HARD-PRESSED TO PURSUE CRIMINAL
12 CHARGES.

13 IF ON THE OTHER HAND, THERE ARE
14 VIOLATIONS OF HAZARDOUS WASTE REGULATIONS, THEY
15 COULD VERY WELL BE FELONIES. AND HE HAS EXPRESSED
16 AN INTEREST IN PURSUING A FELONY CHARGE IF A FELONY
17 CHARGE IS -- FELONY VIOLATIONS ARE UNCOVERED.

18 CHAIRMAN FRAZEE: FOR MY PART, I AM
19 IMPRESSED WITH THE AGGRESSIVENESS WITH WHICH YOU
20 HAVE PURSUED THIS ITEM TO THIS POINT. AND MY
21 CONCERN REVOLVES AROUND THE SITUATION WHERE WE MAY
22 EXPEND TAXPAYERS' FUNDS TO CLEAN THIS UP, AND THEN
23 YOUR DEPARTMENT LOSES SOME ENTHUSIASM FOR

24 CONTINUING TO PURSUE THIS. AS I MENTIONED, OUR
25 PHONE CONVERSATION, THE TIMING OF THIS CONCERNS ME.

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1 FROM THAT STANDPOINT, HAS THIS HAD
2 ENOUGH TIME TO PLAY OUT SO THAT ALL THE LEGAL
3 ACTIONS THAT CAN BE TAKEN ARE EXHAUSTED BEFORE WE
4 PROCEED WITH A BOARD-MANAGED CLEANUP? AND I'M
5 HOLDING MY RESERVATION ON THAT ONE, BUT WE'LL SEE
6 HOW IT GOES.

7 LET'S HEAR FROM REGINALD RICCI. IS
8 HE HERE? WE HAVE A SPEAKER SLIP? YES.

9 MR. LOUIE: THANK YOU VERY MUCH.

10 MR. RICCI: DO YOU WANT TO ASK QUESTIONS?

11 CHAIRMAN FRAZEE: WELL, IF YOU WOULD LIKE
12 TO MAKE ANY KIND OF A STATEMENT OR PRESENTATION.

13 MR. RICCI: WELL, I'LL MAKE A PRELIMINARY
14 STATEMENT. IN THE HISTORY OF THIS SITE, MR. LOUIE
15 HAS ADMITTED THE SITUATION REGARDING CITY DEBRIS
16 BOX, WHICH WAS A RENTER OF A PORTION OF THAT
17 PROPERTY PRIOR -- YEAR OR SO PRIOR TO MR. WEBB,
18 WHO THEY FOOLED AROUND WITH THIS GUY FOR ABOUT FOUR
19 YEARS. AND HE DISAPPEARED IN THE MIDDLE OF THE
20 NIGHT WHEN THERE WAS GOING TO BE A LOT OF
21 ENFORCEMENT ACTIONS COME DOWN BECAUSE WHEN THE
22 STATE INSPECTED THEM, THEY FOUND OVER 140
23 VIOLATIONS, AND THEY THREATENED THE INSPECTOR, AND
24 THEY HAD TO GO IN WITH POLICE.

25

AND I WAS NOT AWARE OF THIS AND FOUND
55

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1 THIS ALL OUT AFTER THE FELLOW LEFT IN THE MIDDLE OF
2 THE NIGHT. AND THEY DID NO ENFORCEMENT ON THE GUY
3 AND LEFT IT TO ME.

4 AT FINDING OUT THAT THIS GUY WAS
5 SOMEWHAT VIOLENT, I WASN'T ABOUT TO DO THAT. AND I
6 TRIED TO GET THEM TO ENFORCE ON HIM, BUT THEY DID
7 NOT. SO A GREAT PORTION OF WHAT YOU WOULD CALL
8 DEBRIS AND WOOD AND STUFF IS LEFT OVER FROM THAT
9 THING WHICH I HADN'T HAD THE MONEY TO CLEAN UP AT
10 THE TIME.

11 CHAIRMAN FRAZEE: SO THAT WAS A PREVIOUS
12 OPERATOR?

13 MR. RICCI: YES. AND THAT HAS, YOU KNOW,
14 CERTAIN AMOUNT OF BEARING ON THE THING. AND ONE OF
15 THE OTHER PROBLEMS IS THAT NOW THE CITY SAYS THAT
16 THE STREETS ARE UNACCEPTED STREETS, SO WE'RE
17 GETTING AN AWFUL LOT OF ILLEGAL DUMPING THERE,
18 WHICH GOES ON THROUGHOUT THE BAYVIEW AREA ANYWAY,
19 BUT THE DIFFERENCE IS THAT THE CITY WILL NOT
20 ADDRESS THE ISSUE.

21 SO DERELICT CARS AND STUFF, I HAVE TO
22 PAY OUT OF MY OWN POCKET TO GET RID OF IT. STUFF I
23 CAN'T AFFORD TO DUMP, WE SHOVE TOWARDS THAT PILE
24 UNTIL I CAN GET SOME MONEY TO DO SOMETHING WITH

25

IT.

56

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1 MEMBER RELIS: WELL, I JUST -- I DON'T
2 KNOW MUCH ABOUT YOUR BACKGROUND HERE. BUT YOU
3 OWN -- WHAT IS BUCKEYE PROPERTIES?

4 MR. RICCI: IT'S A JUST A NAME FOR THE
5 REAL ESTATE THAT I OWN THERE.

6 MEMBER RELIS: OKAY. IT DOESN'T DESCRIBE
7 OTHER PROPERTIES, JUST THIS --

8 MR. RICCI: YEAH.

9 MEMBER RELIS: -- PARTICULAR PIECE?
10 YOU'VE OWNED IT FOR HOW LONG?

11 MR. RICCI: IT'S BEEN IN MY FAMILY SINCE
12 1955.

13 MEMBER RELIS: THANK YOU.

14 CHAIRMAN FRAZEE: QUESTIONS?

15 MEMBER JONES: NO.

16 MR. RICCI: I WOULD ALSO SAY THAT I WILL
17 TRY AND PUT AS MUCH PRESSURE ON MR. WEBB TO DO
18 WHAT'S RIGHT AS I CAN, AS I FOUND OUT A FEW THINGS
19 HERE TODAY THAT I DIDN'T KNOW.

20 CHAIRMAN FRAZEE: WHAT PERCENTAGE OF THIS
21 WASTE THAT'S ON SITE DO YOU FEEL IS JUST ILLEGAL
22 DUMPING, AND WHAT PERCENTAGE IS ASSOCIATED WITH MR.
23 WEBB'S OPERATION?

24 MR. RICCI: MOST OF WHAT'S WITH MR. WEBB'S

25

OPERATION THAT I KNOW OF OR HAVE SEEN HIM BRING IN

57

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1 IS MOSTLY SOIL OR BROKEN CONCRETE. THE WOODEN
2 DEBRIS AND MIX OF THAT STUFF, THAT'S PROBABLY ABOUT
3 80 PERCENT OF WHAT WAS LEFT OVER FROM CITY DEBRIS
4 AND SOME STUFF FROM DUMPING IN THE STREETS.

5 CHAIRMAN FRAZEE: IS -- THE PHOTOGRAPHS
6 THAT WE SAW OF THIS SITE LOOKED MORE LIKE JUST
7 MUNICIPAL SOLID WASTE RATHER THAN CONSTRUCTION AND
8 DEMOLITION DEBRIS WAS THE WHOLE RUN OF THE MILL OF
9 WASTE ON THE SITE.

10 MR. RICCI: CITY DEBRIS WAS BRINGING IN
11 ANYTHING AND EVERYTHING. THEY WERE CITED FOR GOD
12 KNOWS WHAT.

13 CHAIRMAN FRAZEE: OKAY.

14 MEMBER JONES: I GUESS I HAVE A QUESTION.
15 CITY DEBRIS WAS YOUR TENANT AND HAD A HUNDRED 40
16 VIOLATIONS OR WHATEVER.

17 MR. RICCI: YEAH.

18 MEMBER JONES: L & K DEBRIS BOX WAS YOUR
19 NEIGHBOR. DID YOU OWN ANY OF THE PROPERTY THAT
20 L & K WAS ON?

21 MR. RICCI: NO, BUT THEY RENTED SOME SPACE
22 FROM ME TO STORE THEIR DEBRIS BOXES ON.

23 MEMBER JONES: AND THEY HAD AN ONGOING

24 MATERIALS RECOVERY FACILITY, TRANSFER STATION,
25 GARBAGE DUMP THERE. WHEN YOU -- WHEN CITY LEFT AND
58

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1 YOU SAW THIS PILE OF STUFF AND -- I DON'T
2 UNDERSTAND -- I MEAN -- I HEAR WHAT YOU ARE SAYING.
3 I DON'T UNDERSTAND SOME OF THE LOGIC BEHIND IT, YOU
4 KNOW, AS FAR AS CITY GARBAGE HAD HARMED YOUR
5 PROPERTY OR CITY DEBRIS. AND THEN YOU BROUGHT IN
6 ANOTHER DEBRIS BOX TRANSFER STATION OPERATOR. DID
7 YOU THINK IT WAS GOING TO GET BETTER?

8 MR. RICCI: WELL, MY UNDERSTANDING WAS
9 THAT HE WAS DOING MOSTLY SOIL, AND THAT HE WAS MORE
10 OF AN EXCAVATION CONTRACTOR THAN ANYTHING ELSE
11 BECAUSE I WENT AND INVESTIGATED SOME OF HIS JOBS
12 WHEN I WAS TALKING TO HIM. AND HE'S THERE, YOU
13 KNOW, WITH A BUCKET LOADER OR A STEAM SHOVEL
14 LOADING DIRT INTO HIS BOXES AND BRINGING THEM OUT.

15 MEMBER JONES: THE -- THE FACT THAT YOU
16 ARE THE PROPERTY OWNER, I MEAN THE WAY THE LAWS ARE
17 IN CALIFORNIA, YOU HAVE THE ULTIMATE LIABILITY AND
18 THE ULTIMATE RESPONSIBILITY. THE REASON I BROUGHT
19 UP THE CONDITION OF HAZARDOUS WASTE WAS THAT IT WAS
20 AN ONGOING OPERATION THAT HAD BEEN THERE FOR QUITE
21 A FEW YEARS WHEN CITY WAS THERE, WHEN L & K WAS
22 THERE, NOW WITH THIS GUY. AND IF THEY FIND
23 HAZARDOUS WASTE, THEN THAT IS GOING TO MEAN THAT
24 THAT WAS AN ILLEGAL STORAGE FACILITY FOR ILLEGAL

25 HAZARDOUS WASTE. THAT CHANGES THIS WHOLE THING
 59

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1 FROM JUST BEING A LOCAL DUMP TO CONSIDERABLE.

2 MR. RICCI: THE ONLY HAZARDOUS WASTE THAT
3 I DID SEE THAT I WOULD CONSIDER A PROBLEM WAS THAT
4 CITY DEBRIS HAD A PILE OF CREOSOTED TIMBERS --

5 MEMBER JONES: I'M NOT --

6 MR. RICCI: -- WHICH THE CITY KNEW ABOUT,
7 AND THEY DIDN'T DO ANYTHING ABOUT THAT EITHER. I
8 DON'T KNOW.

9 MEMBER JONES: IT'S NOT -- I MEAN I DON'T
10 REALLY WANT TO KEEP GOING DOWN THIS ROAD, BUT I
11 JUST WANTED TO MAKE SURE THAT IRREGARDLESS OF WHO
12 PUT IT THERE, THE LANDOWNER IS ULTIMATELY
13 RESPONSIBLE. AND I WOULD -- YOU KNOW, I WAS KIND
14 OF HOPING THAT -- THE CONDITION IS NEAR AND DEAR TO
15 MY HEART, BUT I WAS HOPING THAT IT WOULD ALSO BE A
16 SIGNAL THAT THERE COULD BE NOT JUST THE POLES THAT
17 YOU CAN SEE, BUT WHAT'S BURIED AT THE BOTTOM OF THE
18 PILE YOU MAY NOT WANT TO TAKE A CHANCE THERE.

19 MR. RICCI: THERE SHOULD BE NOTHING THERE.

20 MEMBER JONES: PRAY. I HOPE THERE ISN'T
21 FOR YOUR SAKE. ALL RIGHT. ANYWAY.

22 CHAIRMAN FRAZEE: OKAY. THANK YOU.
23 OKAY. WE HAVE THE ITEM BEFORE US.

24 MEMBER JONES: MR. CHAIRMAN?

25

CHAIRMAN FRAZEE: YOU WANT TO MAKE A
60

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1 MOTION. CONDITIONS.

2 BOARD MEMBER JONES: I'LL-MAKE A MOTION
3 THAT WE DO A STATE CLEANUP OF MOBILE DEBRIS BOX
4 DISPOSAL SITE. I WOULD LIKE TO ADD A COUPLE OF
5 CONDITIONS. THOSE CONDITIONS WOULD BE IN THE FORM
6 OF A LETTER FROM THE WASTE BOARD TO THE LEA OF THE
7 CITY OF SAN FRANCISCO WITH A SIGN-OFF, I THINK,
8 FROM THEIR LEGAL. I DON'T PRETEND -- DON'T TAKE ME
9 REAL LITERALLY ON THIS. OKAY. GIVE ME A LITTLE
10 ROOM HERE FOR WHAT HAS TO BE DONE BECAUSE I MAY SAY
11 SOMETHING THAT CAN'T BE DONE. THE INTENT -- YOU
12 WILL UNDERSTAND THE INTENT. TALK TO THE LEGAL AND
13 MAKE SURE THAT WE CAN DO THIS, THAT I WOULD LIKE
14 THEM TO AGREE TO CONTINUE THEIR LEGAL FIGHT IN
15 COURT DEALING WITH BOTH THE OPERATOR AND THE
16 LANDOWNER.

17 IF IN THE COURSE OF THE STATE
18 CLEANUP, WE FIND HAZARDOUS WASTE, THAT THE CITY
19 INITIATES WHATEVER LEVEL OF ENFORCEMENT, CRIMINAL
20 OR CIVIL, WHATEVER IT IS, AND THAT THE CITY AND
21 THE
22 STAFF FROM THE WASTE BOARD, THE LEGAL, LOOK AT
23 THE -- YOU KNOW, LOOK AT THE COMPLAINT THAT WAS
24 FILED BY THE CITY AND DETERMINE IF THAT WE NEED TO

24 ADD ON RESTITUTION TO US. BECAUSE I THINK
25 EVERYTHING -- THE CITY IS USING THE STATUTES IN
THE

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1 STATE, BUT IT LOOKS LIKE THE PENALTIES AND
2 EVERYTHING GO TO THE CITY. I'M NOT TALKING ABOUT
3 TAKING AWAY THEIR PENALTIES. OVER AND ABOVE, YOU
4 KNOW, SOME FORM OF -- IF WE WIN, SOME FORM OF
5 RESTITUTION FROM THE OPERATOR AND LANDOWNER TO
6 RESTORE FUNDS BACK TO THE 2136 FUND.

7 THESE CONDITIONS ARE NOT CONDITIONS
8 THAT SAY IF THEY FAIL IN THOSE THINGS, THAT WE LOOK
9 AT THIS DIFFERENTLY. I'M SAYING WE'RE GOING TO
10 FUND THIS THING. THESE ARE CONDITIONS THAT I WANT
11 IN ADDITION TO THAT. THERE'S SOME WORK DONE, AND I
12 HAVE EVERY FAITH THAT THOSE ARE UNDERSTOOD,
13 ANYWAY. THIS JUST MAKES THEM A LITTLE MORE FORMAL
14 AND KEEPS IT AT THE TOP OF THE PILE.

15 MEMBER RELIS: MR. CHAIR, I HAVE A COUPLE
16 OF QUESTIONS RELATED TO THIS MOTION BECAUSE I'M
17 TRYING TO UNDERSTAND IT. OKAY.

18 ARE YOU SAYING, STEVE, THAT THEY HAVE
19 PROPOSED CIVIL PENALTIES; AND IF THOSE CIVIL
20 PENALTIES EVER MATERIALIZE, THE MONEY WOULD BE
21 GOING TO THE CITY. SO WOULD WE BE IN A SUBORDINATE
22 POSITION? THEY WOULD GET PAID FOR THEIR LEGAL
23 COSTS, WHATEVER THE PENALTIES ACCRUE; AND THEN IF

24 THERE WAS MONEY AFTER THAT, WE WOULD BE COMPENSATED
25 FOR -- OR LET ME JUST -- I'M TRYING TO FIGURE OUT

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1 WHERE THE TRAIL IS ON THE MONEY.

2 MEMBER JONES: WHAT'S GOING THROUGH MY
3 MIND, AND I'LL LET ANYBODY GIVE THE -- PROBABLY THE
4 RIGHT ANSWER, WAS THAT THE COMPLAINT IS WRITTEN BY
5 THE CITY. I THINK ALL THOSE PENALTIES NEED TO GO
6 TO THE CITY. I DON'T HAVE A PROBLEM WITH THAT.
7 I'D LIKE TO SEE THEIR COMPLAINT AMENDED TO INCLUDE
8 ANY 2136, YOU KNOW, AS PART OF WHATEVER THE
9 SOLUTION IS, THAT THERE IS ALSO A CONDITION THAT
10 THE JUDGE LOOKS AT.

11 MEMBER RELIS: SO REPAYMENT BECOMES A PART
12 OF THE SUIT, THAT WE ASK THEM TO ADD THAT ON?

13 MEMBER JONES: I DON'T KNOW IF THAT'S
14 EVEN --

15 MR. LOUIE: IF I MAY, AS PART OF OUR
16 COMPLAINT, WE ARE ASKING FOR COST RECOVERY, NOT
17 ONLY COST RECOVERY IN TERMS OF THE ADMINISTRATIVE
18 TIME THAT THE CITY AND COUNTY OF SAN FRANCISCO HAS
19 EXPENDED IN OUR ENFORCEMENT EFFORT, BUT WE'RE ALSO
20 ASKING FOR COST RECOVERY IN TERMS OF THE CLEANUP.

21 THE WAY WE KIND OF SEE IT IS
22 THIS, AND THAT IS, THAT IT IS OUR HOPE THAT MR.
23 RICCI WILL CLEAN THE SITE UP ON HIS OWN. AND
24 CERTAINLY HE HAS INDICATED THAT HE WAS GOING TO

25

MAKE THAT EFFORT. WHERE THE STATE-SPONSORED

63

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1 CLEANUP WOULD COME INTO PLAY IS SHOULD MR. RICCI
2 NOT BE ABLE TO CLEAN UP THE SITE, SHOULD MR. WEBB
3 FAIL TO TAKE RESPONSIBILITY FOR THE MESS THAT HE
4 HAS CREATED ON THIS SITE, THEN WE HAVE THEN AS AN
5 ALTERNATIVE AS US A STATE-SPONSORED CLEANUP.

6 I'VE BEEN INFORMED BY OUR LEGAL
7 COUNSEL THAT WITH THE FILING OF THE COMPLAINT,
8 THERE'S ALSO A FILING ON THE PUBLIC RECORDS. AND
9 THE ATTORNEY DESCRIBED IT AS A LIS PENDENS, AND
10 PERHAPS YOUR ATTORNEY -- AND ESSENTIALLY WHAT THAT
11 SHOWS IS THAT THERE IS LEGAL ACTION ON THIS
12 PROPERTY SO THAT IF ANYBODY CHOOSES TO PURCHASE
13 THIS PROPERTY OR IF MR. RICCI GOES FORTH AND TRIES
14 TO TAKE A LOAN OUT ON THIS PROPERTY, IT BASICALLY
15 INFORMS INDIVIDUALS WHO MAY HAVE AN INTEREST IN
16 THIS PROPERTY THERE IS LEGAL ACTION PENDING.

17 I'M ALSO TOLD BY OUR CITY ATTORNEY
18 LATE YESTERDAY AFTERNOON THAT THE FILING OF A
19 COMPLAINT MAY TAKE A BIT OF TIME BY GOING THROUGH
20 THE JUDICIAL PROCESS, AND WE RECOGNIZE THAT THIS
21 SITE DOES PRESENT AN IMMINENT HAZARD. AND THAT IT
22 IS OUR INTENT TO FILE A MOTION FOR SUMMARY JUDGMENT
23 NEXT WEEK WHERE WE ARE GOING TO SEEK A PRELIMINARY
24 INJUNCTION AGAINST THE OPERATOR AND AGAINST THE

25 PROPERTY OWNER AS WELL SO THAT WE CAN GO IN AS
64

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1 QUICKLY AS POSSIBLE AND TO GET MR. WEBB TO CEASE
2 FROM ENGAGING IN THIS ILLEGAL ACTIVITY.

3 MEMBER RELIS: ON THAT SCORE, OKAY, IS
4 THERE MATERIAL CONTINUES TO COME IN?

5 MEMBER JONES: OH, YEAH.

6 MEMBER RELIS: SO THIS IS AN ONGOING --

7 MR. LOUIE: THIS IS AN ONGOING OPERATION.
8 I WAS OUT THERE YESTERDAY AFTERNOON; AND WHILE MR.
9 WEBB MAY HAVE TAKEN SOME STEPS TOWARDS REMOVING
10 SOME DEBRIS FROM THE SITE, IT APPEARS TO ME WHAT
11 HAS DONE IS LOAD SOME OF THIS DEBRIS UP IN DEBRIS
12 BOXES AND PLACED IT ON THE STREETS ADJOINING HIS
13 PROPERTY. IN FACT, HE'S PLACED IT IN SUCH A WAY
14 THAT --

15 MEMBER RELIS: LIKE A CANCER.

16 MR. LOUIE: -- IT'S BECOME AN
17 OBSTRUCTION OF A PUBLIC THOROUGHFARE.

18 I THINK THERE NEEDS TO BE SOME
19 CLARIFICATION TOO WITH RESPECT TO THE AMOUNT OF
20 DEBRIS THAT IS THERE AND THE NATURE OF THAT DEBRIS.
21 WHILE IT IS CERTAINLY TRUE THAT NOT ALL THE
22 MATERIAL THERE IS THE RESULT OF MR. WEBB'S
23 OPERATION, I WOULD SAY THAT BETTER THAN 90 PERCENT
24 OF THAT MATERIAL IS A RESULT OF MR. WEBB'S

25 OPERATION THERE.

65

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1 CITY DEBRIS WAS A SITE THAT WAS
2 OPERATING WITHOUT THE BENEFIT OF A PERMIT. THEY
3 HAD -- WHEN THEY LEARNED THAT THEY NEEDED A SOLID
4 WASTE FACILITY PERMIT, THEY TRIED TO COMPLY WITH
5 THAT REQUEST. SUBSEQUENTLY, THEY JUST FOUND IT WAS
6 TOO DAUNTING A TASK FOR THEM AND DECIDED TO GO OUT
7 OF BUSINESS.

8 WE HAVE MADE AN ATTEMPT TO PURSUE
9 THEM, BUT IT WAS TANTAMOUNT TO, I GUESS, SQUEEZING
10 BLOOD FROM A TURNIP. BUT AS YOU REALIZE,
11 UNFORTUNATELY, THE LANDLORDS, PROPERTY OWNERS, ARE
12 THE ONES THAT ARE ULTIMATELY RESPONSIBLE FOR THE
13 HAZARDS THAT MAY BE CREATED BY THEIR TENANTS. SO
14 WE ARE LOOKING FOR REMEDIAL ACTION FROM THE
15 PROPERTY OWNER AS WELL AS THE CURRENT OPERATOR.

16 MEMBER RELIS: WELL, AGAIN, JUST PURSUING
17 THIS, UNDER THIS CIRCUMSTANCES WE'RE SEEKING TO DO
18 A CLEANUP. THE REQUEST IS FOR A CLEANUP AGAINST A
19 SITE WHICH IS STILL RECEIVING -- APPEARS TO BE
20 RECEIVING WASTE. SO AS WE'RE CLEANING UP, KNOWING
21 THE SORDID HISTORY HERE, ARE WE ASSURED THAT STUFF
22 ISN'T GOING TO BE COMING IN AS WE CLEAN UP?

23 MR. LOUIE: MY HOPE IS THAT WITH THE
24 FILING OF THE PRELIMINARY INJUNCTION, THAT MR. WEBB

25 WILL NO LONGER BE IN BUSINESS AT THIS SITE. WHERE
66

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1 HE MIGHT GO REMAINS TO BE SEEN. BUT, YOU KNOW, IF
2 HE CONTINUES TO OPERATE IN VIOLATION OF THE
3 INJUNCTION, IT WILL BE, I WOULD HOPE, AN ACTION
4 THAT MAY BE FOUND IN CONTEMPT OF COURT.

5 I MIGHT ALSO SAY THAT I HAD EARLIER
6 STATED THAT WE ARE NOT ONLY SEEKING
7 ADMINISTRATIVE -- COST RECOVERY FOR ADMINISTRATIVE
8 PURPOSES, BUT WE'RE ALSO LOOKING TO SEEK RECOVERY
9 FOR WHATEVER CLEANUP EXPENSES MAY BE ASSOCIATED
10 WITH REMEDIATING THIS HAZARD.

11 THERE IS A LOCAL REGULATION, AS WELL
12 AS STATE REGULATIONS, THAT ALLOW US TO PLACE A LIEN
13 ON THE PROPERTY TO RECOVER EXPENSES FOR, YOU KNOW,
14 FOR CLEANUP. AND IF YOU NOTICE, THE COMPLAINT THAT
15 WE FILED IN SUPERIOR COURT DOES SEEK COST RECOVERY
16 FOR CLEANUP.

17 THE NOTICE AND ORDER VIOLATION ALSO
18 STATES THAT WE WILL SEEK COST RECOVERY IF WE NEED
19 TO GO IN THERE AND DO CLEANUP.

20 MS. TOBIAS: MR. LOUIE, DO YOU HAVE A
21 CEASE AND DESIST ON THE PROPERTY AT THIS TIME?

22 MR. LOUIE: YES, WE DO.

23 MS. TOBIAS: AGAINST BOTH THE OPERATOR AND
24 THE --

25

MR. LOUIE: THAT'S RIGHT.
67

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1 MS. TOBIAS: I THINK THAT WAS WHAT HE WAS
2 TRYING TO ASK.

3 MEMBER RELIS: JUST ONE FINAL. IF WE
4 ADOPT THIS, APPROVE THIS CLEANUP, NOW IT'S
5 UNDERSTOOD, I THINK THIS IS STANDARD PRACTICE, IF
6 WE ENCOUNTER ANY HAZARDOUS WASTE, THEN WE STOP?

7 MS. RICE: NO. ACTUALLY OUR CONTRACTOR IS
8 ABLE TO TAKE CARE OF QUITE A BIT OF MATERIAL. IN
9 THIS INSTANCE, GIVEN THE CONDITION THAT YOU'RE
10 DESCRIBING, WE WOULD CERTAINLY WANT THE CONTRACTOR
11 TO DOCUMENT EVERYTHING THAT THEY FIND AND THE
12 NATURE OF IT SO THAT THE LETTER OR THE CONDITIONS
13 COULD BE COMPLIED WITH.

14 MEMBER RELIS: GIVEN, AGAIN, THE STORY,
15 I'M HOPEFUL THAT THERE WON'T BE ANY.

16 MS. RICE: WE'VE ENCOUNTERED SOME ON A
17 NUMBER OF CLEANUPS. IT'S A MATTER OF WHAT YOU FIND
18 AND HOW MUCH.

19 MEMBER RELIS: OKAY.

20 CHAIRMAN FRAZEE: IT'S THE INTENT IN THE
21 COMPLAINT TO RECOVER COST. AND DOES THAT INCLUDE
22 THE \$300,000 THAT IS BEING ASKED?

23 MR. LOUIE: THAT IS CERTAINLY OUR INTENT.

24 CHAIRMAN FRAZEE: AND THE CITY, THEN,

25 WOULD IMPOSE THE LIEN ON THE PROPERTY, AND IT WOULD
68

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1 NOT BE NECESSARY FOR US TO PURSUE THAT.

2 MR. LOUIE: WELL, OUR CITY ATTORNEY IS
3 PREPARED TO PLACE A LIEN ON THAT PROPERTY TO ENSURE
4 THAT TO THE EXTENT POSSIBLE THAT COST RECOVERY IS,
5 IN FACT, REALIZED. I WOULD IMAGINE THAT TO THE
6 EXTENT THAT THE BOARD HAD EXPENDED THESE FUNDS,
7 THAT THE LIEN WOULD IDENTIFY THE BOARD, THEN, AS
8 BEING PERHAPS A LIENHOLDER, IF YOU WILL.

9 MS. TOBIAS: MR. CHAIR, I THOUGHT WHAT I
10 MIGHT TRY TO DO IN THE INTERVENING TIME BEFORE THE
11 BOARD MEETING IS TALK TO THE CITY ATTORNEY WHO
12 FILED THIS AND JUST CHECK ON THAT AND TRY TO
13 CLARIFY HOW THAT WOULD WORK.

14 MEMBER JONES: I HAVE ONE MORE QUESTION.
15 OKAY. SO THOSE ARE THE THINGS THAT I'M PUTTING
16 FORWARD IN MY MOTION AND THAT'S IT.

17 JUST AS A MATTER OF CLARIFICATION FOR
18 ME, AND JUST -- I DON'T EVEN KNOW IF WE HAVE THE
19 RIGHT OR THINGS LIKE THAT, BUT IF IN THE COURSE OF
20 THE NOTICE -- I MEAN YOU HAVE A CEASE AND DESIST;
21 AND IF THEY IGNORE THE CEASE AND DESIST, DO YOU
22 HAVE STEPS THAT YOU CAN TAKE THAT ESSENTIALLY
23 REMOVE THE INSTRUMENTS THAT CREATE THE PROBLEM,
24 WHICH WOULD BE THE TRUCK AND THE BOXES? I MEAN IF

25

THIS GUY IS NOT -- YOU KNOW WHAT I'M SAYING? I

69

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1 DON'T WANT TO SOUND VENGEFUL, BUT HE'S GOT A PRETTY
2 GOOD RECORD HERE THAT THE GUY HAS BEEN TO FIVE
3 DIFFERENT PLACES AND DOESN'T SEEM TO CARE.

4 HIS TRUCKS MAY NOT BE WORTH MUCH ON
5 THE OPEN MARKET, BUT IF THEY'RE THE TRUCKS THAT ARE
6 HAULING THIS STUFF TO THIS ILLEGAL DUMP, THEY'RE
7 WORTH EVERYTHING. AND AS PART OF A RECOVERY OF
8 FUNDS, YOU KNOW, I DON'T KNOW -- I DON'T KNOW WHERE
9 THAT GOES.

10 MEMBER RELIS: YOU MEAN CAN YOU IMPOUND
11 EQUIPMENT?

12 MEMBER JONES: RIGHT, THAT CAUSES A
13 PROBLEM.

14 MS. TOBIAS: THEY FILED A NUISANCE ACTION,
15 IN ESSENCE, WHAT THIS REALLY IS. IT DOES INCLUDE
16 ACTION UNDER OUR STATUTES, BUT IN ESSENCE THIS IS A
17 NUISANCE ACTION. SO I WILL TALK TO THE CITY
18 ATTORNEY ABOUT THE POSSIBILITY OF DOING THAT.

19 I KNOW WE'VE ASKED FOR IT IN ONE
20 OTHER SITUATION ON A TIRE CLEANUP WHERE WE FELT
21 THAT THE PERSON JUST KEPT MOVING THE TIRES AROUND,
22 AND THAT WHAT WE REALLY NEEDED TO DO WAS GET HIS
23 TRUCK. AND, YOU KNOW, IT REALLY DEPENDS ON WHAT

24 KIND OF ASSETS THE PERSON HAS. IF THAT'S THEIR
25 ONLY TRUCK, THEN, YOU KNOW, THE COURT'S PROBABLY

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1 NOT LIKELY TO TAKE THE TRUCK. IF THEY HAVE SEVERAL
2 TRUCKS, THEN THEY CAN -- WE CAN SHOW THAT THAT'S,
3 YOU KNOW, THE CONTINUING OR THE CHRONIC CAUSE OF
4 THIS. THERE'S A POSSIBILITY OF DOING THAT.

5 CHAIRMAN FRAZEE: OKAY. WE HAVE THE ITEM
6 BEFORE US. MOTION --

7 MEMBER RELIS: I'LL SECOND.

8 CHAIRMAN FRAZEE: -- AND SECOND TO APPROVE
9 THE ALLOCATION OF \$300,000 FOR THE MOBILE DEBRIS
10 BOX SERVICE DISPOSAL SITE CLEANUP IN THE CITY AND
11 COUNTY OF SAN FRANCISCO WITH THE CONDITIONS
12 RELATING TO ENFORCEMENT OF THE ACTION AGAINST THE
13 PROPERTY OWNER AND THE OPERATOR. FAIR STATEMENT?
14 THE SECRETARY WILL CALL THE ROLL ON THAT.

15 THE SECRETARY: BOARD MEMBER RELIS.

16 MEMBER RELIS: AYE.

17 THE SECRETARY: BOARD MEMBER JONES.

18 MEMBER JONES: AYE.

19 THE SECRETARY: CHAIRMAN FRAZEE.

20 MEMBER JONES: AYE.

21 CHAIRMAN FRAZEE: AYE. MOTION IS CARRIED.

22 MEMBER RELIS: MR. CHAIR, BEFORE WE GO TO
23 THIS NEXT ITEM, I WANT TO REPORT AN EX PARTE
24 COMMUNICATION I HAD OVER THE BREAK WITH TERRY

25

LEVEILLE CONCERNING THE TIRE COMBUSTION POLICY

71

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1 THAT'S UNDER DISCUSSION IN THE LEVEE PROJECTS THAT
2 CONTINUE TO BE BEFORE US.

3 CHAIRMAN FRAZEE: OKAY. WHAT DO YOU THINK
4 ABOUT CONSENT ON THIS ITEM? YOU HAVE ANY PROBLEM
5 WITH THAT? OKAY. WITHOUT OBJECTION, THEN WE'LL
6 RECOMMEND CONSENT ON THAT ITEM.

7 NOW WE'RE READY FOR ITEM 15, THE
8 PRESENTATION OF THE UPDATED INVENTORY OF SOLID
9 WASTE FACILITIES WHICH VIOLATE STATE MINIMUM
10 STANDARDS AND THE UPDATED SIGNIFICANT CHANGE
11 VIOLATION LIST.

12 MS. RICE: THANK YOU. PAUL WILLMAN WILL
13 MAKE THE PRESENTATION.

14 MR. WILLMAN: GOOD MORNING, COMMITTEE
15 MEMBERS. PCR 44104 REQUIRES THE BOARD TO UPDATE
16 AND PUBLISH TWICE ANNUALLY AN INVENTORY OF SOLID
17 WASTE FACILITIES WHICH VIOLATE STATE MINIMUM
18 STANDARDS. THIS ITEM PRESENTS THE UPDATED
19 INVENTORY TO THE BOARD.

20 IN ADDITION, THE UPDATED VERSION OF
21 THE SIGNIFICANT CHANGE VIOLATION LIST IS ALSO
22 PRESENTED IN THIS ITEM TO GIVE YOU A MORE
23 COMPREHENSIVE LOOK AT THE COMPLIANCE STATUS OF
24 SOLID WASTE FACILITIES IN THE STATE.

25

THE LAST UPDATE WE DID WAS IN
72

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1 FEBRUARY OF 1997, AND AT THAT TIME THE COMMITTEE
2 AND BOARD REQUESTED PLACEMENT OF THE INVENTORY ON
3 THE BOARD LIST OF PUBLICATIONS AND ON THE
4 INTERNET. AND IN ORDER TO MAKE THE INVENTORY A
5 DOCUMENT WHICH IS MORE READABLE TO THE GENERAL
6 PUBLIC, IN PLACING IT ON THE INTERNET, AN
7 INTRODUCTION HAS BEEN ADDED WHICH PROVIDES GENERAL
8 INFORMATION ON WHAT IS THE INVENTORY, WHAT ARE
9 STATE MINIMUM STANDARDS, AND WHAT ARE VIOLATIONS,
10 AND HOW ARE THEY DEALT WITH.

11 IN ADDITION, IT INCLUDES AN
12 EXPLANATION OF HOW TO INTERPRET EACH OF THE
13 INFORMATION IN EACH OF THE COLUMNS ON THE INVENTORY
14 ITSELF, AND IT ALSO DIRECTS PEOPLE HOW THEY CAN
15 REQUEST FURTHER INFORMATION ON A PARTICULAR
16 FACILITY IF THEY HAVE QUESTIONS.

17 THIS INTRODUCTION IS INCLUDED IN YOUR
18 ITEM AS ATTACHMENT 3.

19 THE FORMAT OF THE INVENTORY ITSELF
20 HAS ALSO BEEN CHANGED SINCE THE LAST UPDATE. THE
21 INVENTORY ITSELF IS INCLUDED AS ATTACHMENT 1, AND
22 TWO NEW COLUMNS OF INFORMATION HAVE BEEN ADDED,
23 INCLUDING A COLUMN FOR LEA ENFORCEMENT ACTIONS

AND

24 A COLUMN FOR COMPLIANCE DEADLINES FOR EACH OF THE

25 VIOLATIONS FOR WHICH THEY ARE LISTED ON THE

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1 INVENTORY.

2 ALSO, I'D LIKE YOU TO NOTE THAT
3 VIOLATIONS WHICH HAVE BEEN CORRECTED SINCE THEY
4 WERE ORIGINALLY INCLUDED ON THE INVENTORY DO NOT
5 APPEAR ON THIS UPDATED VERSION. ONCE THEY'RE
6 CORRECTED, WE TAKE THEM OFF THE INVENTORY, THOSE
7 PARTICULAR STANDARDS.

8 ONE OF THE THINGS THAT POPPED UP IN
9 REVIEWING THIS, AND I WAS JUST TALKING ABOUT IT
10 WITH DOROTHY RICE, IS IF YOU LOOK AT SOME OF THE
11 COMPLIANCE DEADLINES, THEY ARE PAST DUE. AND
12 INITIALLY THE STAFF WAS GOING TO RELY ON IF
13 SOMEBODY WANTED MORE INFORMATION ABOUT, YOU KNOW, A
14 FACILITY WHERE A RED FLAG LIKE THAT WAS APPARENT,
15 THAT THEY COULD CONTACT ENFORCEMENT AS IT DIRECTS
16 IN THE INTRODUCTORY DOCUMENT. THAT WAS OUR INITIAL
17 READ ON IT.

18 BUT DOROTHY WAS MENTIONING THAT MAYBE
19 WE COULD ADD, LIKE, A STATUS COLUMN WHICH WOULD
20 EXPLAIN -- FOR EXAMPLE, I THINK FOUR OF THE SITES,
21 I WAS JUST GOING OVER IT, FOUR OF THE SITES THAT
22 HAVE GAS VIOLATIONS THAT EITHER DON'T HAVE AN
23 ENFORCEMENT ORDER OR THEY'VE GOT A PAST DUE

24 COMPLIANCE DEADLINE, THEY ACTUALLY HAVE GAS SYSTEMS
25 INSTALLED, BUT THEY'RE JUST TWEAKING THEM OR THEY

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1 NEED TO ADD A FEW MORE WELLS, THINGS LIKE THAT, SO
2 THEY ACTUALLY DID MEET THE COMPLIANCE DEADLINE
3 BECAUSE THE DEADLINE WAS ACTUALLY FOR INSTALLATION
4 OF THE SYSTEM, NOT, YOU KNOW, BELOW 5 PERCENT. SO
5 THAT WAS LIKE A MILESTONE.

6 ANYWAY, SO I GUESS WE'RE KIND OF
7 LOOKING FOR DIRECTION FROM YOU. WOULD YOU LIKE TO
8 SEE A STATUS COLUMN THAT WOULD EXPLAIN THOSE TYPES
9 OF THINGS, OR DO YOU WANT TO LEAVE IT AS IT IS?

10 MS. RICE: MY THOUGHT, MEMBERS, WAS THAT
11 IF WE ARE LOOKING AT, AND WE ARE BECAUSE IT WAS
12 YOUR DIRECTION IN FEBRUARY, PLACING THIS AS A
13 PUBLICATION ON THE INTERNET AND HAVING IT AVAILABLE
14 AS A HARD COPY DOCUMENT, THE MORE CONTEXT WE
15 PROVIDE FOR WHAT THIS MEANS THE BETTER.

16 IF YOU HAVE A COLUMN THAT SHOWS AN
17 ORDER AND THE DATE IS PAST AND THERE'S NO
18 INDICATION OF WHETHER IT WAS MET OR THERE IS LACK
19 OF COMPLIANCE, THEN WE HAVEN'T ANSWERED THE
20 QUESTION THAT THE PUBLIC IS MOST LIKELY TO HAVE:
21 SHOULD I BE CONCERNED ABOUT THIS LANDFILL OR
22 FACILITY? SO MY THOUGHT WAS THE MORE INFORMATION
23 WE CAN PROVIDE, THE BETTER THAT ENABLES A PUBLIC, A

24 PERSON, TO UNDERSTAND WHAT THE DOCUMENT IS AND THE
25 CONTEXT FOR IT.

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1 THE ATTACHMENT THAT PAUL HAS INCLUDED
2 IN THE ITEM OF SOME LANGUAGE AROUND HOW WE WOULD
3 HOPE TO PROVIDE SOME BACKGROUND ON WHAT THE
4 INVENTORY IS, WHAT VIOLATIONS ARE, WHAT STATE
5 MINIMUM STANDARDS ARE IS A DRAFT. WE ARE
6 CONTINUING TO WORK ON TRYING TO MAKE THIS INTO A
7 WORKABLE, MEANINGFUL PUBLICATION, AND AT SOME POINT
8 IN THE NEAR FUTURE WOULD BE PROVIDING COPIES TO
9 YOUR OFFICES TO LOOK AT AND PROVIDE US ANY COMMENTS
10 AS WE TRY TO GET READY TO PUT IT ON THE INTERNET
11 BECAUSE I KNOW THAT IS SOMETHING WE DISCUSSED A LOT
12 IN FEBRUARY, AND YOUR SENSITIVITIES TO HOW IT
13 SHOULD LOOK AND WHAT KIND OF A DOCUMENT IT SHOULD
14 BE TO PUT THIS INFORMATION FORWARD.

15 CHAIRMA FRAZEE: I WAS JUST TRYING TO FIND
16 THAT. HAD IT A MOMENT AGO AND NOW I CAN'T FIND IT.

17 MS. RICE: IT'S PRETTY BRIEF. I THINK,
18 ISN'T IT ONE PAGE, PAUL?

19 MR. WILLMAN: IT'S TWO PAGES.

20 CHAIRMAN FRAZEE: THERE IT IS.

21 MS. RICE: SO WE'RE JUST INCLUDING IT FOR
22 YOUR INFORMATION AT THIS POINT, AND YOU WILL BE
23 SEEING SOMETHING WITH A LITTLE MORE CONTEXT IN THE
24 NEAR FUTURE.

25

MEMBER RELIS: SO IF YOU WERE SEEKING

76

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1 DIRECTION, I WOULD LIKE TO SEE THAT. I THINK WE
2 USED THE TERM -- I MEAN IT'S KIND OF A STRANGE
3 TERM, REAL TIME, BUT --

4 MS. RICE: THE MORE INFORMATION THE BETTER
5 IS WHAT I'M HEARING.

6 MR. WILLMAN: WHAT WE'LL DO, THEN, IS ADD
7 THAT STATUS COLUMN AND THEN GO AHEAD AND FORWARD IT
8 TO YOUR INDIVIDUAL OFFICES. IF YOU ARE OKAY WITH
9 THAT, WE'LL GO AHEAD AND PLACE IT ON THE NET AND
10 GET IT ON THE BOARD LIST OF PUBLICATIONS.

11 CHAIRMAN FRAZEE: THEN HOW OFTEN WOULD
12 THAT BE UPDATED?

13 MR. WILLMAN: EVERY TWO MONTHS IS WHAT --
14 WE'RE GOING TO BE ACTUALLY UPDATING IT IN A REAL
15 TIME FASHION.

16 AS FAR AS WHAT'S HAPPENING ON THE
17 INVENTORY SINCE THE LAST UPDATE, BACK IN FEBRUARY
18 THERE WERE 47 FACILITIES ON THE INVENTORY AND 15
19 HAVE BEEN REMOVED, AND ONLY THREE HAVE BEEN ADDED.
20 SO WE HAVE A TOTAL OF 35 SITES CURRENTLY ON THE
21 INVENTORY, WHICH IS GOOD TO SEE, OF COURSE.

22 OKAY. AS FAR AS THE SIGNIFICANT
23 CHANGE LIST, THERE WERE 34 SITES ON THE

24 INVENTORY -- ON THE LIST BACK IN FEBRUARY. TEN
25 HAVE BEEN REMOVED AND EIGHT HAVE BEEN ADDED, AND SO

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1 THERE'S A TOTAL OF 32, BUT I'D LIKE TO MENTION THAT
2 COLTON AND PASO ROBLES LANDFILLS BOTH ARE BEING --
3 WERE HEARD BY YOU ACTUALLY TODAY AND WILL BE TAKEN
4 OFF THE LIST SHORTLY ONCE THEY RECEIVE THEIR
5 REVISED PERMIT, WHICH BRINGS IT DOWN TO 30.

6 AND ALSO, COLTON IN THE -- I THINK IT
7 WAS THE LEA BOARD ACTION COLUMN, IT SAID THAT THEY
8 WERE OPERATING UNDER AN EXPIRED STIP, AND THAT WAS
9 INCORRECT. I JUST WANTED FOR THE RECORD THERE WAS
10 AN UPDATED VERSION OF A STIP ISSUED IN NOVEMBER OF
11 1996, SO THEY WERE OPERATING AND THEY HAVE MET
12 THOSE -- THEY ARE GOING TO MEET THOSE DEADLINES.
13 THEY'RE SUPPOSED TO GET A PERMIT BY OCTOBER 2D, AND
14 IT LOOKS LIKE THEY'RE GOING TO MEET THAT. SO
15 ANYWAY, LITTLE ERRATA THERE.

16 AND THAT BASICALLY CONCLUDES THIS
17 STAFF'S PRESENTATION. IF YOU HAVE ANY OTHER
18 QUESTIONS, BE HAPPY TO ANSWER THEM IF I CAN.

19 CHAIRMAN FRAZEE: LOOKS GOOD.

20 MEMBER JONES: I THINK YOU ARE DOING GOOD.

21 MS. RICE: THIS ITEM WOULD NOT ORDINARILY
22 GO TO THE BOARD UNLESS YOU WISH OTHERWISE.

23 CHAIRMAN FRAZEE: I DON'T BELIEVE IT NEEDS

24 TO. I DON'T THINK SO.

25 MEMBER JONES: MAYBE IN THE DIRECTOR'S

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1 REPORT HE COULD REFER TO THE SUCCESS.

2 CHAIRMAN FRAZEE: THAT WOULD BE ADEQUATE.

3 OKAY. THANK YOU.

4 NOW WE ARE READY FOR AGENDA ITEM 16.

5 THIS IS THE UPDATE AND DISCUSSION OF RECOMMENDA-

6 TIONS FOR REVISION TO THE INFORMAL DRAFT

7 REGULATIONS FOR TRANSFER, MATERIAL RECOVERY, AND

8 PROCESSING OPERATIONS AND FACILITIES.

9 MS. RICE: THANK YOU VERY MUCH. ALLISON

10 REYNOLDS AND BEATRICE PAROLI WILL MAKE A STAFF

11 PRESENTATION.

12 MS. REYNOLDS: GOOD MORNING, CHAIRMAN AND

13 COMMITTEE MEMBERS. THE PURPOSE OF THIS ITEM IS TO

14 UPDATE AND DISCUSS RECOMMENDATIONS FOR REVISIONS TO

15 THE INFORMAL DRAFT REGULATIONS FOR TRANSFER,

16 MATERIAL RECOVERY, AND PROCESSING OPERATIONS AND

17 FACILITIES. STAFF HAS CIRCULATED DRAFT REGULATIONS

18 FOR AN INFORMAL COMMENT PERIOD WHICH BEGAN IN APRIL

19 OF THIS YEAR. STAFF MAILED THE REGULATION PACKAGE

20 TO OVER 600 INTERESTED PARTIES, INCLUDING LOCAL

21 ENFORCEMENT AGENCIES, INDUSTRY REPRESENTATIVES, AND

22 STATE REGULATORS.

23 STAFF ALSO HELD WORKSHOPS IN REDDING,

24 DIAMOND BAR, AND SACRAMENTO IN JUNE AND JULY. AS A

25 RESULT, STAFF RECEIVED 25 WRITTEN COMMENT LETTERS
79

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1 AND NUMEROUS VERBAL COMMENTS DURING THE WORKSHOPS.
2 STAFF BRINGS FORWARD SIX SIGNIFICANT ISSUES FOR
3 DIRECTION BY THE COMMITTEE. THESE ARE THE TWO-PART
4 TEST, THE 10-PERCENT RESIDUAL VERSUS THE ALTERNA-
5 TIVE PLAN; WHETHER TO MAINTAIN THE DEFINITIONS FOR
6 SOURCE SEPARATED AND SEPARATED FOR REUSE; THE
7 METHODOLOGY TO PLACE TRANSFER PROCESSING FACILITIES
8 WITHIN THE TIERS; ADDING ADDITIONAL EXCLUSIONS;
9 WHETHER TO REQUIRE THE APPROPRIATE TIER PERMIT; AND
10 WHETHER TO DEVELOP A MEMORANDUM OF UNDERSTANDING
11 WITH CAL-OSHA.

12 WE CAN NOW BRIEFLY DISCUSS EACH
13 ISSUE. THE COMMITTEE CAN OPEN EACH ISSUE FOR
14 DISCUSSION ONE AT A TIME, OR WE CAN DISCUSS THEM
15 ALL ONCE EACH ISSUE HAS BEEN DESCRIBED.

16 MS. RICE: WOULD YOU LIKE STAFF TO GO
17 THROUGH ALL THE ISSUES FIRST AND THEN RETURN TO NO.
18 1 FOR DISCUSSION, OR DO YOU WANT TO BREAK FOR
19 DISCUSSION AFTER EACH DESCRIPTION?

20 CHAIRMAN FRAZEE: WELL, IT MIGHT BE BEST
21 JUST TO DISCUSS EACH ISSUE AS WE COME TO IT AND
22 DISPOSE OF THAT.

23 MS. RICE: VERY WELL.

24 MS. REHBERG: OKAY. REGARDING THE

TWO-

25 PART TEST, 10-PERCENT RESIDUAL, AND AN
ALTERNATIVE

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1 PLAN SUBMITTED BY AN LEA, THE TWO-PART TEST
2 DESCRIBES THE CRITERIA WHEREIN A RECYCLING
3 OPERATION MUST RECEIVE MATERIALS THAT HAVE BEEN
4 SOURCE SEPARATED OR SEPARATED FOR REUSE AND
5 GENERATE LESS THAN 10-PERCENT RESIDUAL MEASURED ON
6 A MONTHLY BASIS. IF AN ACTIVITY FAILS EITHER PART
7 OF THE TEST, IT WILL BE SUBJECT TO THE BOARD'S
8 AUTHORITY AND PLACED INTO THE APPROPRIATE
9 REGULATORY TIER.

10 DURING THE INFORMAL COMMENT PERIOD,
11 AN ALTERNATIVE PLAN TO THE BOARD'S TWO-PART TEST
12 WAS SUBMITTED TO BOARD STAFF BY MR. RICHARD HANSON
13 AND PRESENTED AT TWO OF THE WORKSHOPS. MR. HANSON
14 IS HERE TODAY AND WILL PROVIDE A DESCRIPTION OF
15 THE
16 ALTERNATIVE PLAN.

17 STAFF BRINGS THIS FORWARD AS AN
18 ISSUE
19 FOR DISCUSSION AND DIRECTION FROM THE COMMITTEE.
20 COMMENTS RECEIVED FROM SEVERAL LEA'S DURING THE
SOUTHERN CALIFORNIA WORKSHOPS HAVE BEEN IN
SUPPORT
OF THE ALTERNATIVE PLAN. STAFF DOES NOT KNOW

THE

21 EXTENT OF THE RECEPTION THE ALTERNATIVE PLAN HAS
22 AMONG ALL LEA'S OR OTHER INTERESTED PARTIES.

23 STAFF RECOMMEND RETAINING THE
BOARD'S

24 TWO-PART TEST AS A BASIS FOR THESE REGULATIONS;

25 HOWEVER, THERE ARE SOME ASPECTS OF THE
ALTERNATIVE

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1 PLAN THAT WE RECOMMEND THE COMMITTEE CONSIDER,
2 SUCH AS COMBINING TOGETHER TRANSFER STATION AND
3 MATERIAL RECOVERY ACTIVITIES FOR PLACEMENT INTO
4 THIS PERMIT TIERS AND USING TONNAGE FOR THESE
5 ACTIVITIES AS A BASIS FOR DETERMINING PLACEMENT
6 INTO THE PERMIT TIERS.

7 THAT CONCLUDES THIS ISSUE.

8 CHAIRMAN FRAZEE: OKAY. THIS IS ONE
9 THAT'S GOING TO REQUIRE A FAIR AMOUNT OF
10 DISCUSSION. I WONDER IF IT MIGHT BE WORTHWHILE TO
11 HEAR FROM MR. HANSON ON THIS SPECIFIC ISSUE AND
12 THEN --

13 MEMBER RELIS: MR. CHAIR, I WONDER IF I
14 COULD JUST -- THIS IS A DISCUSSION. I THINK IT'S
15 IMPORTANT FOR US ALL TO REALIZE THIS IS A
16 DISCUSSION. THIS IS NOT A CONSIDERATION ITEM
17 TODAY. THAT'S MY TAKE ON IT.

18 MS. RICE: WHILE IT IS NOT A CONSIDERA-
19 TION ITEM, AS NOTED, WE ARE SEEKING DIRECTION FROM
20 THE COMMITTEE ON THESE MATTERS SO THAT WE CAN GO
21 BACK TO THE OFFICES AND DRAFT A NEW SET OF DRAFT
22 REGULATIONS FOR YOUR FURTHER CONSIDERATION OR TO
23 BEGIN THE OAL PROCESS. SO WE ARE SEEKING

DIRECTION

24 TODAY, TO THE EXTENT POSSIBLE, ON THESE ISSUES SO
25 THAT WE CAN DRAFT CHANGES TO THE REGULATIONS.

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1 MEMBER RELIS: IF I COULD -- LET ME JUST
2 CONTINUE THEN FOR A MOMENT. YOU KNOW, WE SPENT A
3 GREAT DEAL OF TIME ON THIS MATTER, AND THERE WAS
4 CONSIDERABLE DEBATE. THE 10 PERCENT AND THE TEST
5 WERE SUBJECT TO MUCH DISCUSSION.

6 I'M LOOKING TO THE LEA COMMUNITY, AT
7 LEAST, AND I CERTAINLY READ AND THANK MR. HANSON
8 FOR -- THIS IS A MAJOR PIECE OF WORK THAT WAS
9 DONE. I DON'T KNOW HOW MANY OTHER PARTIES WERE
10 INVOLVED IN IT; BUT IF NOT, STANDING ALONE, IT'S A
11 MAJOR UNDERTAKING AND APPRECIATE THE CONCERN IT
12 EXPRESSES.

13 BUT I'M STILL SEARCHING IN THIS
14 DISCUSSION AND NEED TO BE PERSUADED THAT THERE'S A
15 PROBLEM AND THAT THE PROBLEM IS IDENTIFIABLE, THAT
16 THE PROBLEM REPRESENTS A SERIOUS THREAT TO PUBLIC
17 HEALTH AND SAFETY, WHICH IS OUR PRIMARY FUNCTION
18 HERE.

19 AND SO IF THE SPEAKERS WHO ARE
20 ADDRESSING THIS MATTER COULD, AT LEAST FOR THIS
21 MEMBER, HELP DEFINE THE PROBLEM. WE'RE AWARE
22 OBVIOUSLY WITH THE RECENT CASES, AND THEY'RE CITED
23 IN THIS PAPER, THAT WE UNDERTOOK EMERGENCY
24 REGULATIONS AS A RESULT OF UNDERSTANDING WHAT THAT

25 PROBLEM WAS. AND SO THAT IS JUST A REQUEST TO THE
 83

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1 SPEAKERS, MR. HANSON INCLUDED, IF HE COULD HELP
2 THIS MEMBER UNDERSTAND WHAT'S AT STAKE HERE.

3 CHAIRMAN FRAZEE: IF -- I KNOW YOU HAVE
4 OTHER ITEMS THAT ARE ON THE LIST, BUT IF -- WE'LL
5 CALL YOU BACK FOR THOSE; BUT IF WE COULD CONFINE
6 YOUR COMMENTS TO THE TEST AREA FIRST OF ALL AND SEE
7 IF WE CAN DISPOSE OF THAT ONE WAY OR ANOTHER.

8 MR. HANSON: GOOD MORNING, CHAIRMAN
9 FRAZEE, MR. RELIS, MR. JONES. I WASN'T REALLY
10 PREPARED TO STAND UP HERE AND TRY TO EXPLAIN THE
11 ENTIRE ALTERNATIVE PLAN. THANKS, ALLISON.

12 THIS STARTED OUT SEVERAL MONTHS AGO
13 WHEN THE FIRST DRAFT OF THE INFORMAL REGS CAME OUT
14 AND THE GROUP OF LEA'S IN SOUTHERN CALIFORNIA GOT
15 TOGETHER TO DISCUSS THEM. AND IT BECAME VERY
16 APPARENT EARLY ON THAT ONE OF THE PRIMARY CONCERNS
17 WAS THIS WHAT'S IN, WHAT'S OUT, THIS 10-PERCENT
18 DEMARCATON LINE. AND LIKE SO MANY OF THE OTHER
19 LEA'S, WE HAD COME TO THIS MEETING WITH COMMENTS ON
20 MANY FACETS OF THE PROPOSED REGULATIONS, BUT WE
21 DIDN'T REALLY ADDRESS THE 10 PERCENT, WHAT'S BEEN
22 KNOWN, AT LEAST IN OUR WORLD, AS THE 10-PERCENT
23 SOLUTION, BECAUSE WE HAD RECOGNIZED THAT THE
BOARD

24 HAD SPENT A LOT OF TIME AND A LOT OF EFFORT TO
COME

25 UP WITH THIS. AND WE FELT THAT TO SPEND ANY TIME

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1 TRYING TO CRITICIZE IT WOULD BE JUST A WASTE OF
2 TIME; HOWEVER, THE MORE WE GOT TALKING ABOUT THE
3 REGULATIONS, WE FELT THAT WE HAD TO GET AT THE CRUX
4 OF OUR CONCERN. AND THAT WAS THAT THE 10 PERCENT
5 COULD NOT BE ENFORCED. WE DIDN'T BELIEVE IT COULD
6 BE.

7 WE HAD EXPRESSED THIS SEVERAL YEARS
8 AGO WHEN THIS FIRST CAME OUT AT VARIOUS MEETINGS
9 AND WORKSHOPS. AND WE RECOGNIZE AND UNDERSTAND HOW
10 THE 10-PERCENT SOLUTION CAME ABOUT.

11 SO WE DECIDED THAT WE WOULD TRY TO
12 JUST START FROM SQUARE ONE AND COME UP WITH SOME
13 SORT OF A HOLISTIC APPROACH TO THE PROBLEM. AND
14 THAT'S WHERE THE SO-CALLED ALTERNATIVE PLAN CAME
15 FROM. THERE WERE LEA'S THAT MET ON AT LEAST TWO
16 DIFFERENT OCCASIONS IN SOUTHERN CALIFORNIA. AND
17 FROM THE NOTES, THE IDEAS THAT WERE DERIVED, NOT
18 ONLY FROM THOSE MEETINGS, BUT FROM THE IDEAS THAT
19 WERE EXPRESSED SEVERAL YEARS AGO AND ALSO FROM THE
20 CCDEH LETTER OF AUGUST OF 1995, WE PUT TOGETHER
21 THIS HOLISTIC APPROACH.

22 AND I THINK THAT THE PLAN DOESN'T SO
23 MUCH TRY TO PUT FORTH THIS IDEA AS THE ONLY IDEA

24 THAT CAN WORK, BUT I THINK THAT ITS APPROACH
25 UNDERSCORES THE PROBLEMS WITH THE 10-PERCENT

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1 SOLUTION. AND I THINK THAT THAT -- THAT IS THE
2 VERY BASIS OF THE ALTERNATIVE PLAN IS THE 10
3 PERCENT.

4 THE REASONS THAT WE HAVE A PROBLEM
5 WITH IT IS THAT WE FEEL THAT USING RESIDUAL ITSELF
6 AS A CRITERIA IS VERY DIFFICULT BECAUSE IT REQUIRES
7 DETAILED RECORDKEEPING, IT'S AN AFTER-THE-FACT
8 DETERMINATION, AND THE FACT MAY HAPPEN A LONG TIME
9 BEFORE RESIDUAL IS DETERMINED TO EITHER BE TRASH OR
10 REUSABLE OR RECYCLABLE.

11 THE RESIDUALS VARY OVER TIME. WE
12 WOULD BE ATTEMPTING TO ENFORCE ACTIVITIES THAT ARE
13 INITIALLY OUTSIDE OF OUR SCOPE OF AUTHORITY. AND
14 ONE OF THE MOST DIFFICULT THINGS IS THAT THE LINE
15 WAS DRAWN IN THE MIDDLE OF THE UNIVERSE OF SOURCE
16 SEPARATED PROCESSING FACILITIES. IF YOU WILL
17 RECALL IN THE SUMMER OF 1995, BOARD STAFF WAS SENT
18 OUT TO INVESTIGATE THE SOURCE SEPARATED FACILITIES
19 THROUGHOUT THE STATE, AND THEY CAME UP WITH 41 THAT
20 THEY LOOKED AT. AND THE AMOUNTS OF RESIDUALS
21 VERSUS THE NUMBER OF FACILITIES IN THESE VARIOUS
22 CATEGORIES SHOWED THAT THE MEDIAN OR THE AVERAGE
23 WAS RIGHT AT 10 PERCENT. SO YOU HAD AN ALMOST

24

25

AND FOR LEA'S THIS WAS ALMOST

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1 COMPLETELY INDISTINGUISHABLE. WE FELT IT WOULD BE
2 VERY DIFFICULT TO TRY TO DETERMINE WHETHER ONE WAS
3 AT 8 OR ONE WAS AT 12, ESPECIALLY WHEN WE HAD NO
4 AUTHORITY AT MANY OF THESE FACILITIES TO BEGIN
5 WITH.

6 OF COURSE, THE FACILITIES THAT ARE
7 ALREADY PERMITTED, THERE'S NO PROBLEM. BUT THE
8 ONES THAT ARE OUTSIDE, THEY'RE VERY DIFFICULT TO
9 DETERMINE WHAT'S GOING ON THERE. THEY LOOK LIKE
10 PERMITTED FACILITIES FROM THE OUTSIDE. THEY
11 UTILIZE THE SAME TYPES OF MACHINERY, TRUCKS ARRIVE
12 WITH MATERIAL, MATERIAL IS REMOVED, AND RESIDUALS
13 ARE TAKEN AWAY JUST LIKE AT A MRF. IT'S JUST A
14 MATTER OF DEGREE.

15 THE SECOND MAJOR PROBLEM WAS IN THE
16 SLOTTING OF THE TIERS IN THAT -- WELL, IT DOES GO
17 ON A LITTLE BIT CONNECTED WITH THE 10 PERCENT, BUT
18 I THINK THAT THAT'S ALL YOU REALLY WANTED TO HEAR
19 ABOUT INITIALLY. ANY QUESTIONS?

20 CHAIRMAN FRAZEE: I'M TRYING TO PHRASE A
21 QUESTION. DO YOU SEE ANY CHANGE IN THE NUMBER OF
22 FACILITIES THAT MAY BE INCLUDED UNDER THE 10-
23 PERCENT TEST VERSUS WHAT YOUR PROPOSED TEST IS?

24 MR. HANSON: WELL, THAT'S A VERY GOOD
25 QUESTION. AS I UNDERSTAND IT, THERE MAY BE A

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1 CHANGE IN WHERE THESE FACILITIES ARE TODAY AS THEY
2 WERE TWO YEARS AGO AND THERE MAY BE. THE LEA'S, IN
3 ORDER TO ESTABLISH SOME SORT OF A FRAMEWORK UPON
4 WHICH WE CAN MAKE OUR CONCERN, AS SUGGESTED BY MR.
5 RELIS, THAT WE GO OUT AND GET SOME DATA, WE'VE
6 TRIED TO SURVEY THE LEA'S THROUGHOUT THE STATE TO
7 FILL IN A SURVEY FORM THAT ADDRESSES NOT ONLY
8 NONPERMITTED SOURCE SEPARATED FACILITIES, BUT
9 TRANSFER STATIONS AND MRF'S AS WELL, TO COME UP
10 WITH SOME SORT OF A DATABASE TO FIND OUT WHERE THE
11 NATURAL BREAKS IN THE DATA ARE, IF THERE ARE ANY.
12 AND NO MATTER WHAT KIND OF REGULATION IS ULTIMATELY
13 PROPOSED, HOW THIS WOULD AFFECT THE EXISTING
14 OPERATIONS.

15 AND I DON'T KNOW WHAT THAT IS BECAUSE
16 THAT SURVEY IS STILL BEING WORKED ON. AND I WOULD
17 HOPE THAT WE WOULD HAVE SOMETHING READY WITHIN A
18 MONTH, BUT I CAN'T SAY. WE HAVE OVER A HUNDRED
19 RESPONSES RIGHT NOW, BUT I THINK THAT THERE'S
20 PROBABLY THREE TIMES THAT MANY OUT THERE.

21 MEMBER RELIS: BUILDING ON THAT, SO YOU
22 HAVE A SURVEY WITH THE LEA COMMUNITY INVOLVEMENT TO
23 TRY AND IDENTIFY --

24 MR. HANSON: YES.

25 MEMBER RELIS: A -- ELABORATE ON THAT.

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1 WHAT IS THE SURVEY?

2 MR. HANSON: WELL, WE TRY TO IDENTIFY THE
3 TYPES OF MATERIALS THAT ARE COMING INTO FACILITIES,
4 WHETHER THEY BE TRANSFER STATIONS, MRF'S, OR SOURCE
5 SEPARATED, OR WHATEVER YOU WANT TO CALL THEM,
6 RECYCLING OPERATIONS, WHAT THE INPUT TONNAGE IS,
7 WHAT RESIDUALS ARE GOING OUT; AND IF THEY DEAL IN
8 JUST ONE TYPE OF MATERIAL, SUCH AS PAPER, GLASS,
9 THAT THEY WOULD INDICATE THAT, AND THEN WHERE DOES
10 THE MATERIAL GO.

11 SOME FACILITIES THAT WE'RE FINDING
12 OUT SEPARATE RECYCLABLES OUT, AND THEN THESE GO TO
13 A PERHAPS MRF OR ANOTHER SOURCE SEPARATED FACILITY
14 TO BE PROCESSED AGAIN. SO THAT'S A LITTLE CHANGE
15 THAT I HADN'T HEARD OF BEFORE.

16 MEMBER RELIS: YOU MEAN THAT YOU WOULD GO
17 TO THE TROUBLE OF SEPARATING AND THEN GO TO A MRF?

18 MR. HANSON: I MEAN THAT'S HOW I
19 UNDERSTAND IT. MAYBE THAT ISN'T WHAT'S
20 HAPPENING.

21 BUT I MYSELF HAVE NOT LOOKED AT THE DATA. WE'VE
22 ENCOURAGED THE LEA'S TO KEEP THE INFORMATION
23 SECRET, AT LEAST AS FAR AS THEY'RE CONCERNED.

THEY

23 DON'T HAVE TO PROVIDE US WITH THE DATA. THE DATA

24 IS BEING CENTRALIZED IN ORANGE COUNTY AND ALSO

LOS

25 ANGELES COUNTY. AND I HAVE A STAFF MEMBER WHO IS

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1 CONTACTING THE LEA'S IN ORDER TO MAKE SURE THAT
2 EACH ONE OF THE RESPONSES IS THE SAME THROUGHOUT
3 THE STATE, SO WE DON'T HAVE SOMEBODY FILLING IN THE
4 FORM DIFFERENT THAN SOMEBODY ELSE.

5 MEMBER RELIS: HOW DO YOU PROPOSE OR
6 ENVISION THIS COMING BACK TO US? WHAT FORM THAT WE
7 HAVE? THERE'S A SECRET SURVEY?

8 MR. HANSON: NOT A SECRET SURVEY.

9 MEMBER RELIS: BUT THE INPUTS ARE SECRET.
10 THESE ARE GOING TO BE EVALUATED BY A GROUP OF THE
11 LEA COMMUNITY, A NUMBER OF PEOPLE SELECTED TO
12 REVIEW.

13 MR. HANSON: NO. WHAT I WOULD PROPOSE IS
14 THAT WE WOULD JUST SIMPLY GIVE YOU THE RAW DATA.
15 WE CAN MAKE OUR OWN EVALUATION OF WHAT IT MEANS.
16 BUT IF YOU WERE TO HAVE IT, THEN AT LEAST YOU COULD
17 MESSAGE IT ANY WAY YOU CHOSE, BUT WE WOULD GIVE YOU
18 THE RAW NUMBERS.

19 MEMBER RELIS: AND THE QUESTION, AGAIN,
20 THAT YOU'VE PUT TO THE LEA, THEY'RE ALL GOING OUT
21 WITH THE SAME, WHAT, ASSUMPTION, BRING IN INFORMA-
22 TION -- THE SURVEY FACTORS ARE THE FOLLOWING, AND
23 IT'S A STANDARD SURVEY.

24 MR. HANSON: YES.

25

MEMBER RELIS: OKAY. OKAY.

90

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1 MR. HANSON: AND IF THE SURVEY DEMON-
2 STRATES THAT THERE ISN'T A PROBLEM, LET'S SAY THAT
3 SINCE TWO YEARS AGO, THESE -- THE UNIVERSE HAS
4 FLATTENED OUT AND THAT THERE IS NO NATURAL BREAK,
5 WELL, THEN, MAYBE THERE'S NO PROBLEM AT ALL.
6 THERE'S NOTHING THAT THIS TYPE OF APPROACH WOULD
7 WORK IN THAT KIND OF A WORLD.

8 MEMBER RELIS: I GUESS THAT BRINGS ME BACK
9 TO MY ORIGINAL POINT. WE HAVE A VERY SIGNIFICANT
10 SURVEY UNDER WAY. WE'RE DISCUSSING THE ITEM. WE
11 DON'T HAVE THE BENEFIT OF THE SURVEY. SO YOU JUST
12 SAID, RICHARD, IF I HEARD YOU CORRECT, YOU ARE NOT
13 SURE IF WE HAVE A PROBLEM.

14 MR. HANSON: I DON'T KNOW. I DON'T KNOW.
15 WHAT WE'RE GOING ON IS DATA THAT'S TWO YEARS OLD,
16 AND THAT'S WHY WE CAME UP WITH THE SO-CALLED
17 ALTERNATIVE PLAN.

18 MEMBER RELIS: I, FOR ONE, WOULD CERTAINLY
19 FEEL MORE GROUNDED, I GUESS, IF WE HAD THE SURVEY
20 AND THE RESULTS IN SOME INTERPRETATION BY OUR STAFF
21 AS A BASIS FOR WHAT COULD BE A VERY WIDE-OPEN
22 DISCUSSION, DIFFICULT TO RESOLVE IN ANY IMPORTANT
23 WAY BECAUSE OF KNOWING ALL THE ISSUES THAT WERE

24 BROUGHT TO BEAR THE LAST TIME WE WENT THROUGH
25 THIS. AND SO I'LL LEAVE IT AT THAT.

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1 MEMBER JONES: MR. CHAIR, I HAVE A
2 QUESTION. WE -- AS THE NEWEST MEMBER ON THE BOARD,
3 I'M SURE EVERYBODY IS LOOKING ON TO WONDER. I KNOW
4 THE BATTLE WAS HARD FOUGHT FOR A LONG TIME. I WAS
5 SITTING ON THE OUTSIDE GIVING MY COMMENTS TO CRRC
6 WHERE I WAS A MEMBER.

7 BUT IN DEALING -- IN LEA'S HAVING TO
8 DEAL WITH 10-PERCENT RESIDUAL, I THINK THE 10
9 PERCENT IS FINE. I DON'T HAVE A PROBLEM WITH THAT.
10 I THINK IT'S BEEN WELL FOUGHT, LONG FOUGHT, AND
11 DOESN'T NEED TO MOVE.

12 BUT I WONDER IF WE ARE NOT CREATING
13 ANOTHER INEQUITY WHEN THERE IS NO CAP ON THAT.

AND

14 I KNOW THAT THE DISCUSSIONS ON THE CAP IN THE
15 OCTOBER '95 WERE AROUND 5 TO 7 TONS. I'M NOT
EVEN

16 GOING DOWN THAT ROAD. I'M WONDERING IF IT MAKES
17 SOME SENSE THAT WHATEVER TONNAGE WE DETERMINE TO
BE

18 THE BREAK FROM A REGISTRATION TIER, WHICH I'M
19 LOOKING AT THAT, WOULD BE VERY CLOSE TO WHAT NOW
20 NEEDS A PLAN OF OPERATION FOR A SOLID WASTE
21 FACILITY PERMIT, SMALL VOLUME, TO A FULL SOLID

22 WASTE FACILITY PERMIT.

23 IF THAT BREAK ON RESIDUAL WAS AT 99

24 TONS, LET'S SAY, LET'S SAY THAT WE DECIDED THAT

99

25 TONS WAS THE BREAK, THAT WOULD LET A RECYCLING

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1 FACILITY OPERATE A -- IF IN SOME CASES WHERE
2 THEY'RE AT 2- OR 3-PERCENT RESIDUAL, THEY COULD
3 BRING IN 3,000 TONS A DAY AND STILL BE UNDER THE
4 CAP. BUT THOSE FACILITIES THAT BRING IN GARBAGE
5 UNDER THE GUISE OF A RECYCLING FACILITY, WHICH IS
6 THE CASE THAT WE HAD ON A CLEANUP HERE AN HOUR OR
7 SO AGO, THAT FACILITY OPERATED AS A RECYCLING
8 FACILITY AND ARGUED THAT THE LEA HAD NO JURIS-
9 DICTION GOING INSIDE OF IT.

10 I THINK IT'S AN UNFAIR PLAYING FIELD.
11 AND THEN I LOOK AT ADS OF A RECYCLING FACILITY IN
12 NORTHERN CALIFORNIA THAT IS ADVERTISING FOR GENERAL
13 WASTE, AND THEY HAVE AN ESTABLISHED PRICE IN A
14 FLIER THAT GOES OUT TO EVERYBODY, SAYING BRING US
15 YOUR GARBAGE. THAT'S NOT FAIR. THEY DON'T SAY
16 THAT. I'M PARAPHRASING, AND YOU GUYS TAKE
17 EVERYTHING TOO LITERALLY. BUT THIS IS A RECYCLING
18 FACILITY THAT IS ADVERTISING FOR GARBAGE UNDER THE
19 GUISE OF A RECYCLING FACILITY.

20 YET WE HAVE A 60-CUBIC YARD OR A
21 TEN -- 15 CUBIC OR A 15-TON-A-DAY FACILITY THAT IS
22 A TRANSFER STATION OPERATING UNDER A WHOLE
23 DIFFERENT SET OF REGULATIONS. THERE IS A FAIRNESS

24 ISSUE HERE. I WANT THE RECYCLERS -- I WANT THE
25 SMURFITS, THE WEYERHAEUSERS, ALL THOSE PEOPLE TO BE

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1 ABLE TO OPERATE EVERY DAY AND BRING IN THE
2 MATERIAL. BUT I THINK WE NEED SOME CONSISTENCY AS
3 TO WHAT'S FAIR AND WHAT'S NOT FAIR. YOU KNOW, I
4 MEAN YOU CAN BRING IN A HUNDRED TONS OF SOURCE
5 SEPARATED MATERIAL THAT GOES THROUGH YOUR DOOR,
6 GETS UNLOADED BY A FORKLIFT, GETS PUT IN YOUR
7 BACKYARD, AND THAT ALLOWS YOU TO GO OUT AND GET A
8 10-TON LOAD OF GARBAGE AND YOU ARE STILL WITHIN THE
9 PARAMETERS, AND YOU ARE GOING TO OPERATE
10 UNREGULATED.

11 I'VE BEEN IN THE BUSINESS FOR 23
12 YEARS; AND WHILE THE GOOD ACTORS NORMALLY DON'T
13 PLAY THAT WAY, THERE ARE ACTORS OUT THERE THAT
14 ADVERTISE THAT THEY PLAY THAT WAY. SO DOES --
15 WOULD SOMETHING ALONG THE LINES OF 99 TONS GIVE AN
16 LEA THE OPPORTUNITY TO MAKE SURE THAT A FACILITY IS
17 OPERATING WITHIN THOSE BOUNDS?

18 MR. HANSON: TALKING ABOUT THE INPUT
19 TOTAL?

20 MEMBER JONES: RESIDUAL OUTGOING.

21 MR. HANSON: OF 99 TONS?

22 MEMBER JONES: YEAH, PER DAY.

23 MR. HANSON: AND ANYTHING UNDER 99 TONS,
24 WOULD THEY -- THEY WOULD BE OUT.

25

MEMBER JONES: AS LONG AS IT MEETS THE

94

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1 10-PERCENT RULE, AS LONG AS IT MEETS THE 10-PERCENT
2 RULE.

3 MR. HANSON: I DON'T KNOW. I'D HAVE TO
4 THINK ABOUT THAT.

5 MEMBER JONES: I MEAN SOMEBODY USING THE
6 3,000 TONS A DAY UNDER THE 10-PERCENT RULE CAN HAUL
7 300 TONS OF GARBAGE AND OPERATE AS A MUNICIPAL
8 SOLID WASTE FACILITY WITHOUT A PERMIT. THAT
9 DOESN'T SEEM FAIR TO ME, YOU KNOW.

10 MEMBER RELIS: WELL, MR. JONES, I KNOW YOU
11 WEREN'T ON THE BOARD THEN, BUT I BELIEVE YOU
12 PROBABLY WERE FOLLOWING THESE DISCUSSIONS CLOSELY.
13 AND I THINK THE CRUX OF IT CAME DOWN FROM THE
14 HEALTH SIDE WAS WE WERE -- WE HAD A LENGTHY
15 DISCUSSION ABOUT PUTRESCIBLES BECAUSE, AFTER ALL,
16 YOU COULD HAVE A LOT OF -- YOU COULD HAVE MATERIAL
17 IN RESIDUAL, BUT WHAT WAS OF CONCERN TO THE BOARD,
18 AT LEAST I RECALL AT THAT TIME, WERE THE
19 PUTRESCIBLES BECAUSE THAT WOULD BE THE SOURCE OF
20 THE HEALTH AND SAFETY PROBLEM.

21 AND SO WHILE I -- YOU KNOW, WE CAN
22 USE TERMS LIKE 300 TONS. IF THERE'RE PUTRESCIBLES
23 OF 300 TONS, ABSOLUTELY MAJOR HEALTH CONSIDERATION.
24 BUT AT LEAST IN THE DEBATES THAT WE HAD, WE WERE

25 CONFINING AND ASSUMING THAT PUTRESCIBLES WERE
 95

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1 INSIGNIFICANT IN THE LEVEL OF RESIDUAL, AND THAT
2 WAS THE BASIS FOR, I GUESS, THE BOARD DERIVING SOME
3 COMFORT IN OUR DECISION.

4 IF THERE WAS EVIDENCE THAT THERE WERE
5 LARGE AMOUNTS OR HEALTH -- AMOUNTS OF PUTRESCIBLES
6 THAT WERE A HEALTH CONCERN COMING THROUGH SUCH
7 FACILITIES, WELL, THAT WOULD BE A DIFFERENT BALL
8 GAME ALTOGETHER. BUT RIGHT NOW I DON'T HAVE THAT
9 SENSE THAT THERE'S EVIDENCE OF THAT HAPPENING. AND
10 I KNOW YOUR POINT WOULD BE, WELL, WE CAN'T WAIT
11 TILL THERE'S EVIDENCE, THAT THE HEALTH PROBLEM
12 WOULD BE UPON US PERHAPS.

13 MR. HANSON: WELL, THAT'S TRUE. OF
14 COURSE, IN THE 10 PERCENT YOU CAN HAVE 8 TONS OR 3
15 PERCENT OF PUTRESCIBLES AND THEN YOU COULD HAVE 18
16 PERCENT OF JUST PAPER. AND FROM A PUBLIC HEALTH
17 STANDPOINT, I WOULD CERTAINLY BE MUCH MORE
18 CONCERNED WITH THE 3 PERCENT OF PUTRESCIBLES,
19 WHATEVER IT WAS.

20 I THINK IT WAS VERY DIFFICULT TO --
21 IF WE COULD IDENTIFY PUTRESCIBLES IN TRASH, THAT
22 WOULD PROBABLY BE THE BEST THING FROM -- WHETHER OR
23 NOT IT'S IN OR OUT OR WHERE TO SLOT IT, BUT IT'S

24 ALMOST IMPOSSIBLE. IT'S WORSE THAN JUST RESIDUALS.

25 AND I THINK THAT'S ANOTHER REASON WHY WE ADOPTED

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1 THE ALTERNATIVE PLAN, WHICH, OF COURSE, IS THE
2 10-PERCENT ASSUMPTION, THAT WE HAVE ONE-TENTH THE
3 CONCERN OF THESE KINDS OF FACILITIES THAN WE WOULD
4 WITH TRASH.

5 AND I THINK THAT PEOPLE HAVE
6 OVERBLOWN THAT 10-PERCENT ASSUMPTION, AND ALL WE
7 REALLY MEAN THERE IS THAT OUR DEGREE OF CONCERN IS
8 ONLY ONE-TENTH WITH A SOURCE SEPARATED PROCESSING
9 FACILITY THAN WE WOULD HAVE WITH THE SAME AMOUNT OF
10 INPUT THAT WE WOULD FROM EITHER A TRANSFER STATION
11 OR A MRF, AND A MRF, UTILIZING THE DEFINITION, IN
12 THIS CASE A DIRTY MRF.

13 SO IT'S DIFFICULT TO TRY TO PUT, YOU
14 KNOW, THE LINE. AND I THINK THAT IF ANY LINE IS
15 EVER DRAWN, IT SHOULD BE DRAWN ON EXISTING BREAKS
16 IN THE DATA, SO YOU DON'T IMPACT -- IMPACT AS FEW
17 PEOPLE AS POSSIBLE. AND THE 10 PERCENT THAT WAS
18 DONE TWO YEARS AGO, I BELIEVE THAT JUST SPLIT IT
19 RIGHT IN TWO. AGAIN, I RECOGNIZE THAT, AND I ALSO
20 RECOGNIZE THAT THE BOARD, THROUGH THEIR POLICY, IN
21 ESSENCE, GAVE A PROMISE TO EITHER THE RECYCLING
22 INDUSTRY AND THE WASTE INDUSTRY, THAT ONCE THE
23 REGULATIONS WERE PROMULGATED, THAT IT WOULD BE

24 BASED UPON THE POLICY. AND I UNDERSTAND ALSO THAT
25 THERE HAVE BEEN MANY OPERATIONS OR FACILITIES IN
 97

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1 THE STATE THAT HAVE DESIGNED THEIR OPERATION AROUND
2 THE ANTICIPATION OF THE 10 PERCENT.

3 SO IT'S -- I UNDERSTAND THAT. AND
4 IT'S EASY TO SEE FOR ME WHY YOU WOULD BE EXTREMELY
5 RELUCTANT TO CHANGE THAT. BUT AGAIN, I THINK THAT
6 THE ALTERNATIVE PLAN SIMPLY UNDERSCORES THE
7 PROBLEMS OF TRYING TO MAKE THIS DETERMINATION.

8 MEMBER RELIS: BUT AGAIN, IF I COULD JUST
9 MAKE ONE MORE POINT IN THE DEFINITION OF -- OR THE
10 DISCUSSION OF THE 10 PERCENT. AGAIN, OUR SENSE WAS
11 IF THERE WAS A SIGNIFICANT AMOUNT OF PUTRESCIBLES
12 IN THAT 10 PERCENT, THEN IT WOULDN'T HAVE BEEN
13 SOURCE SEPARATED. WE WOULDN'T HAVE EVER -- THAT'S
14 THE CRUX OF IT TO ME, THAT WE WERE LOOKING AT A
15 MATERIAL COMING IN, A 10-PERCENT RESIDUAL GOING
16 OUT, BUT NOT PUTRESCIBLES.

17 WE USE THE TERM, I THINK, EVEN
18 INCIDENTAL, YOU KNOW, LIKE, UH-OH, A BANANA GOT
19 THROWN IN, THERE WAS A FRITO BAG. AND, YEAH, IT
20 WAS INCIDENTAL. IT WAS NOT A COMMINGLING OR A, I
21 GUESS YOU WOULD CALL IT, A MIXING OF, OH, BOY,
22 WE'VE GOT 10 PERCENT, AND HERE'S A STEADY STREAM OF
23 3 PERCENT OF GARBAGE THAT'S BEEN COLLECTED AND

24 MIXED AND COMING IN UNDER THE SUBTERFUGE OF A
25 10-PERCENT RESIDUAL.

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1 THAT'S -- BECAUSE IF IT'S -- WE WERE
2 CORRECT AND IF YOU CAN PROVE US OR SUGGEST THAT
3 WE'RE WRONG ON THAT --

4 MR. HANSON: YOU'RE PROBABLY RIGHT. NO.
5 YOU'RE PROBABLY RIGHT. IT'S JUST THAT IT'S VERY
6 DIFFICULT TO DETERMINE THOSE OPERATIONS THAT ARE
7 OPERATING AT 9 PERCENT AS OPPOSED TO THOSE THAT ARE
8 OPERATING AT 11 PERCENT, THAT IT'S VERY DIFFICULT,
9 IT WILL BE VERY DIFFICULT FOR US TO MAKE THAT
10 DETERMINATION.

11 MEMBER RELIS: THAT SEEMS TO BE A
12 DIFFERENT ISSUE. YOU ARE SAYING THAT WE CAN'T
13 MEASURE, AS LEA'S, WHETHER IT'S 8 TO 12 PERCENT.
14 LET'S JUST USE THAT RANGE. YOU COULDN'T SEE IT
15 WITH YOUR EYE.

16 MR. HANSON: THAT'S TRUE.

17 MEMBER RELIS: IN THE ABSENCE OF DATA FROM
18 THE PARTY, YOU DON'T KNOW WHETHER THAT'S --
19 WHETHER THEY'RE WITHIN OR WITHOUT. THAT'S PUTTING
20 ASIDE FOR THE MOMENT THE PUTRESCIBLE ISSUE, THE
21 HEALTH CONCERN. LET'S SAY -- LET'S SAY IT WAS 15
22 PERCENT OF RESIDUAL, AND ALL THAT'S SOME LEVEL OF
23 SCRAP PAPER, LET'S JUST SAY, THAT WAS NOT DEEMED
24 VALUABLE ENOUGH TO RECOVER. DOES THAT HAVE A --

25

AND SAY WE'RE WRONG ON THAT. IS THERE A HEALTH

99

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1 CONSEQUENCE?

2 MR. HANSON: NO. PERSONALLY, IF IT WAS 15
3 OR 20 OR 25 PERCENT AND ALL THE OPERATION DEALT IN
4 WAS PAPER, I WOULD SAY THEY SHOULD BE OUT.

5 MEMBER RELIS: YES. DON'T EVEN BOTHER
6 THEM.

7 MR. HANSON: THAT'S RIGHT.

8 MEMBER JONES: I'D AGREE. MR. CHAIRMAN,
9 I'D AGREE WITH WHAT HE JUST SAID. THEY SHOULD BE
10 OUT. THE PROBLEM ISN'T WITH THE FACILITY AND WHEN
11 THE MATERIAL GETS THERE. IT'S AT THE COLLECTION
12 POINT AND WHO BRINGS IT IN.

13 I MEAN, THIS IS VERY CLEAR. IT SAYS
14 SOURCE SEPARATED OR SOURCE SEPARATED FOR REUSE. IF
15 A FACILITY HAS ROOM UNDER THE 10-PERCENT RESIDUAL
16 TO GO OUT AFTER A WASTESTREAM THAT IS -- BECAUSE
17 THEY'VE TOLD SOMEBODY THAT IT'S BEEN SEPARATED FOR
18 REUSE, THE WAY I READ THIS IS THAT WOULD BE SORTED
19 NEXT TO THE CONTAINER THAT IS FOR THE PUTRESCIBLES
20 AND THOSE TYPES OF THINGS. WE DON'T KNOW THAT.

21 AND IN REALITY WHAT HAPPENS IS THEY
22 GO OUT AND THEY GET THOSE CUSTOMERS AND THEY TELL
23 THEM THIS IS HOW YOU THIS IS WHAT YOU HAVE TO SAY.

24 YOU HAVE TO SAY THAT YOU ARE RECYCLING AND IT
25 LEAVES, AND IT GOES TO A RECYCLING FACILITY AND IT
 100

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1 GETS DONE.

2 AND IF IT STAYS UNDER THE 10 PERCENT,
3 THEN YOU'RE OKAY. AND IF IT DOESN'T, THAT'S OKAY
4 TOO. BUT THAT'S GARBAGE THAT -- WHAT KILLS ME IS
5 THAT WITHOUT HURTING THE RECYCLING OPERATORS,
6 BECAUSE I DON'T WANT TO, BUT UNDERSTAND MY INDUSTRY
7 IS -- WAS RECYCLERS TOO, BUT WE HAD TO OPERATE BY
8 THE RULES. AND TO MAKE A DETERMINATION AS TO
9 WHETHER OR NOT IT'S PUTRESCIBLE OR JUST STUFF WE
10 DON'T WANT IS FINE IF WE ALL PLAY BY THE SAME
11 RULES.

12 THE PROBLEM IS THAT WHEN YOU'VE GOT A
13 RECYCLING FACILITY THAT WAS IN THE ROOM AT A
14 WORKSHOP TALKING ABOUT THE INTENT OF THE DELIVERER
15 SHOULD BE INCLUDED, THAT IF THAT PERSON THAT
16 CLEANED UP HIS GARAGE OR CLEANED UP HIS HOME REALLY
17 WANTED EVERYTHING IN THAT PICKUP TRUCK TO BE
18 RECYCLED, THEN HE HAD A RIGHT TO BRING IT WHEREVER
19 HE WANTED. WELL, I'M SORRY. I DON'T -- I THINK WE
20 ALL WOULD LIKE TO SEE EVERYTHING RECYCLED, BUT
21 THERE'S A CERTAIN LEVEL OF HEALTH AND SAFETY WE
22 HAVE TO KEEP IN HERE.

23 AND NOW THAT SAME PERSON IS
24 ADVERTISING FOR GENERAL WASTE BEING DELIVERED TO

25 HIS FACILITY. AND ONLY THING HE CAN'T TAKE IS
 101

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1 LIQUID OR HAZARDOUS WASTE. SO THE RULES -- AND
2 WHAT WE DEAL WITH HERE ARE ALL THESE GOOD ACTORS,
3 AND WE HEAR FROM THEM, AND THAT'S WHY A LOT OF THEM
4 ARE NODDING THEIR HEAD, SAYING, "NO, THAT'S WRONG.
5 THAT STUFF NEVER HAPPENED." I BELIEVE THAT THEY
6 NEVER SEE IT BECAUSE THEY'RE GOOD ACTORS AND THEY
7 PLAY BY THE RULES. BUT THERE ARE A LOT OF PEOPLE
8 OUT THERE THAT DON'T PLAY BY THE RULES. AND THE
9 ONES THAT DON'T PLAY BY THE RULES BRING IN GARBAGE
10 AND BRING IN THOSE THINGS, AND THEY OPERATE OUTSIDE
11 OF ANY PERMIT. THEY OPERATE OUTSIDE OF ANYTHING.

12 AND IF THEY OPERATE OUTSIDE ANYTHING
13 AND THE LEA CAN'T PROTECT, THEN HOW DO WE KNOW THAT
14 THE HEALTH AND SAFETY IS BEING PROTECTED? WE
15 DON'T. WE MAKE AN ASSUMPTION THAT -- AND I
16 THINK -- I DON'T EVEN KNOW IF THIS IS RIGHT OR NOT
17 WHEN MR. HANSON SAID THAT WE HAVE 10 PERCENT AS
18 MUCH CONCERN AS A MATERIALS RECOVERY FACILITY OR AS
19 A TRANSFER STATION. BUT WHEN YOU'RE GENERATING --
20 WHEN YOU'RE BRINGING IN 3,000 TONS A DAY, THEN THAT
21 10 PERCENT IS 300 TONS A DAY OF POTENTIAL RESIDUAL,
22 AND YET YOU'RE REGULATING A HUNDRED-FIFTY-TON-A-DAY
23 TRANSFER STATION. WHAT DO YOU HAVE MORE CONCERN

24 OVER, THE 300 OR THE 150? I THINK YOU GOT TO HAVE
25 THE SAME AMOUNT OF CONCERN FOR BOTH.

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1 I'M NOT ASKING TO STOP OR SLOW DOWN
2 ANYBODY'S BUSINESS, JUST PUT A REALISTIC NUMBER ON
3 THERE. NINETY-NINE TONS OF RESIDUAL WASTE. LET
4 THEM RECYCLE A THOUSAND TONS A DAY AT 10-PERCENT
5 RESIDUAL, THEY FALL UNDER IT. THEY NEVER EVEN COME
6 INTO THE REG. BUT IF THEY DECIDE TO NOT STAY IN
7 THE REG, THEN THEY CAN PLAY -- YOU KNOW, THEY CAN
8 BE REGULATED ON A HEALTH AND SAFETY ISSUE.

9 MR. HANSON: I DON'T THINK WE CAN EVER
10 REALLY QUANTIFY OUR LEVEL OF CONCERN. WE CAN TRY
11 TO SET A MAGNITUDE OF CONCERN. AND I THINK THAT IT
12 WAS DEMONSTRATED TWO YEARS AGO WHEN THE BOARD STAFF
13 DID THEIR SURVEY THAT THESE SOURCE SEPARATED
14 PROCESSING FACILITIES, THE TYPE OF -- THE RESIDUALS
15 WAS -- WASN'T GARBAGE. IT WASN'T A LOT OF
16 GARBAGE. IT WAS PRIMARILY INERTS, MATERIAL THAT
17 PEOPLE HAD THROWN IN STUFF THAT THEY -- THE
18 RECYCLER DOESN'T USE THAT TYPE OF PLASTIC AND OTHER
19 SORTS OF THINGS. SO IT -- FROM THAT PERSPECTIVE,
20 THAT'S WHY IN THE ALTERNATIVE PLAN WE SAID
21 ONE-TENTH BECAUSE WE FEEL THAT THE TYPES OF
22 RESIDUAL THAT WILL BE THERE WILL BE OF THE TYPE
23 THAT WE WOULDN'T NORMALLY HAVE A BIG CONCERN ABOUT.

24

PERSONALLY, AND I ONLY SPEAK FOR

25

MYSELF AT THIS POINT IS THAT IF YOU WERE GOING TO

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1 DRAW A LINE, YOU SHOULD HAVE DRAWN IT AROUND 20
2 PERCENT OR 25 PERCENT, AND THEN ALL OF THOSE BELOW
3 THAT WOULD BE OUT BECAUSE THEN I WOULDN'T HAVE TO
4 WORRY ABOUT TRYING TO ENFORCE THE 10 PERCENT. AND
5 THEN IF I HAD A LOCAL CONCERN, THEN WE'D TRY TO GET
6 AN ORDINANCE PASSED THAT WOULD ADDRESS THE PROBLEM,
7 EVEN THOUGH THAT WOULD BE DIFFICULT, AND, OF
8 COURSE, THAT'S CONTRARY TO THE LEVEL PLAYING FIELD,
9 BUT I THINK THAT WE'RE JUST GOING TO SPEND AN AWFUL
10 LOT OF TIME TRYING TO DETERMINE WHO'S IN AND WHO'S
11 OUT, AND IT'S NOT GOING TO ACCOMPLISH A LOT, AT
12 LEAST FROM A STRICTLY PUBLIC HEALTH CONCERN.

13 MEMBER RELIS: MR. CHAIR, I KNOW THERE ARE
14 POTENTIAL SPEAKERS, BUT I'M GOING TO MAKE MAYBE A
15 BOLD SUGGESTION, THAT WE HAVE A SURVEY PENDING.
16 AND I DON'T KNOW THAT I'D FEEL COMFORTABLE GOING
17 MUCH FURTHER WITH THE DISCUSSION WITHOUT SEEING
18 MORE OF WHAT THE LEA COMMUNITY SUGGESTS.

19 I'D BE INCLINED TO TABLE THE
20 DISCUSSION UNTIL THEIR RESULTS ARE OUT AND MATERIAL
21 HAS COME TO STAFF, WE'VE HAD A CHANCE TO EVALUATE
22 IT. AND THEN UNLESS THERE'S SOMETHING THAT I DON'T
23 KNOW ABOUT PRESSING OUR SCHEDULE, BECAUSE THIS

24 IS -- THIS IS A MATTER THAT REQUIRES, IF WE'RE
25 GOING TO REVISIT ANYTHING, AND I'M NOT SAYING WE

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1 SHOULD, I THINK WE NEED THAT INFORMATION.

2 MS. RICE: I GUESS I WOULD WANT TO ASK
3 FOR CLARIFICATION, WHETHER TABLING THE DISCUSSION
4 MEANS TABLING THE PROGRESS ON THE REGULATORY
5 PACKAGE OR JUST TABLING THIS ISSUE TO RETURN LATER.

6 AS YOU ALL KNOW, THE REGULATORY
7 PROCESS TAKES A LONG TIME. AND IF RICHARD IS
8 INDICATING MAYBE IN A MONTH OR SO, HE'D HAVE SOME
9 INFORMATION FOR US, WE'LL PROBABLY BE IN A POSITION
10 AT THAT TIME WHERE, HOPEFULLY, WE'LL BE COMING BACK
11 TO YOU WITH A NEW DRAFT OF REGULATIONS. THERE'LL
12 BE TIME TO TALK ABOUT IT, TIME TO TAKE INTO
13 CONSIDERATION THE NEW INFORMATION. SO THAT'S HOW I
14 WOULD PROPOSE WE MIGHT PROCEED, THAT WE TAKE YOUR
15 DIRECTION TODAY, COME BACK NEXT MONTH WITH NEW
16 LANGUAGE, AND HOPEFULLY THIS ISSUE MAY BE MORE RIPE
17 FOR DISCUSSION.

18 CHAIRMAN FRAZEE: WHILE WE HOLD THIS ISSUE
19 IN ABEYANCE, CAN WE GO AHEAD AND DISPOSE OF A FEW
20 OTHER ITEMS?

21 MS. RICE: BY HOLDING IT IN ABEYANCE, I
22 ASSUME IF WE'RE DOING A NEW DRAFT OF THE
23 REGULATIONS, TO ME THAT MEANS WE STICK WITH THE

24 TWO-PART TEST IN THE DRAFT THAT WE WOULD BE WORKING
25 ON RATHER THAN SUGGESTING ANY CHANGE BECAUSE, AS

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1 YOU NOTED, YOU DON'T HAVE ENOUGH INFORMATION TO
2 KNOW WHETHER YOU WOULD WANT TO ENTERTAIN CHANGE TO
3 THE 10 PERCENT.

4 MEMBER RELIS: I THINK YOU'VE CAPTURED MY
5 END.

6 CHAIRMAN FRAZEE: LET'S HEAR FROM ANYONE
7 ELSE WHO WISHES TO SPEAK ON THIS PARTICULAR PHASE.
8 DENISE DELMATIER.

9 MS. DELMATIER: MR. CHAIRMAN, DENISE
10 DELMATIER WITH THE GUALCO GROUP ON BEHALF OF NORCAL
11 WASTE SYSTEMS. THERE ARE A COUPLE OF ISSUES THAT
12 THE STAFF RAISED IN THEIR ANALYSIS THAT I THINK ARE
13 UNRELATED OR HAVE LITTLE IMPACT AS FAR AS THE
14 PENDING SURVEY, AND WE AGREE WITH YOU, AS FAR AS
15 THE NEW INFORMATION BROUGHT FORWARD BY MR. HANSON,
16 THAT THERE IS THE PENDING SURVEY THAT, I THINK,
17 ADDRESSES THE PUBLIC HEALTH AND SAFETY ISSUE AS FAR
18 AS WHETHER THE 10 PERCENT, ETC. SHOULD BE ALTERED.

19 BUT THERE ARE SOME ISSUES, SUCH AS
20 THE DEFINITIONS OF SOURCE SEPARATED AND SEPARATED
21 FOR REUSE THAT WE COULD DEAL WITH TODAY AND DO HAVE
22 IMPACT UPON THE REGULATORY PACKAGE.

23 CHAIRMAN FRAZEE: SURE. YEAH, THAT WAS MY
24 INTENT ANYWAY WAS TO GO AHEAD WITH SOME OF THE

25 OTHER ISSUES AND ALLOW THE DRAFT TO PROCEED.
106

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1 MS. RICE: YOUR DIRECTION WAS JUST ON
2 ISSUE NO. 1, AS I UNDERSTOOD IT, NOT TO TABLE ALL
3 THE ISSUES IN THE STAFF DRAFT.

4 MS. DELMATIER: AND ISSUE NO. 1 WOULD BE
5 THE 10 PERCENT. AS FAR AS THE DEFINITIONS OF
6 SOURCE SEPARATED AND SEPARATED FOR REUSE, IS THAT
7 CONTAINED --

8 MS. RICE: THAT'S THE NEXT ISSUE.

9 CHAIRMAN FRAZEE: NEXT ISSUE. WE'LL TAKE
10 THAT ONE UP. EVAN EDGAR, DID YOU WISH TO ADDRESS
11 THIS ONE?

12 MR. EDGAR: THANK YOU, CHAIRMAN AND BOARD
13 MEMBERS. MY NAME IS EVAN EDGAR, REPRESENTING THE
14 CALIFORNIA REFUSE REMOVAL COUNCIL. THIS GOES BACK
15 TO 1991. I THINK AL MARINO STARTED THE FIRST
16 SURVEY ABOUT THIS. THIS HAS BEEN A LONG PROCESS.

17 TO GET TO 1995 IN OCTOBER, TO GET TO
18 THE 10-PERCENT SOLUTION, THAT TOOK A LOT OF TIME
19 AND LOT OF ENERGY. AND FROM THAT, WE HAD A SERIES
20 OF RECOMMENDATIONS. I BELIEVE JUST LOOKING AT THE
21 SERIES OF RECOMMENDATIONS ONE MORE TIME WOULD
22 INDICATE SOME OF THE FRUSTRATIONS THAT THE LEA'S
23 HAVE ABOUT ENFORCEABILITY.

24 IN OCTOBER 24, 1995, WE DO HAVE A

25 POLICY. THE POLICY IS JUST A POLICY. IT WAS NEVER
 107

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1 ENACTED IN REGULATIONS, AND THAT IS THE CRUX OF THE
2 PROBLEM. I REALIZE SINCE '95 WE HAD SOME STAFF
3 TURNOVERS, SOME MORALE PROBLEMS WITHIN THE P&E
4 COMMITTEE, BUT I THINK DOROTHY RICE AND HER
5 LEADERSHIP IS BRINGING THE ISSUES BACK. AND WE'RE
6 GLAD WE'RE BACK TODAY BECAUSE WE NEED TO ADDRESS
7 THESE ISSUES.

8 WITH RESPECT TO THE 10-PERCENT
9 SOLUTION, I BELIEVE WHAT WAS NEEDED TO HAPPEN WAS
10 SOME REGULATIONS NEEDED TO OCCUR RIGHT AFTER
11 OCTOBER '95. THOSE NEVER HAPPENED. THEREFORE, THE
12 LEA'S HAD THEIR HANDS TIED. THEY HAD NO AUTHORITY
13 IN THE ENFORCEABILITY TO GO ON SITE TO GET THE
14 RECORDS THEY NEEDED IN ORDER TO DO THEIR JOB.

15 IF YOU LOOK AT -- UNDER THE POLICIES
16 THAT ARE RECOMMENDED IN YOUR BOARD PACKAGE ON PAGE
17 3, IT'S KIND OF CLEAR WHAT NEEDED TO HAPPEN. IF
18 THAT WOULD HAVE HAPPENED, I THINK WE'D BE IN A LOT
19 BETTER POSITION TODAY, THAT IF THE BOARD WOULD HAVE
20 DIRECTED STAFF TO DEVELOP A STANDARDIZED RECORD-
21 KEEPING PROCEDURE THAT DOCUMENTS THE RESIDUAL
22 PERCENTAGE OF MATERIAL RECOVERY FACILITIES AND
23 OTHER OPERATIONS AND FACILITIES THAT FALL UNDER THE
24 BOARD'S REGULATORY TIER.

25

ANOTHER ONE IS THAT NO. 7, STAFF
108

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1 SHALL ENSURE THAT THE RECORDKEEPING REQUIREMENTS
2 ARE ENFORCEABLE AND TO MINIMIZE, TO THE EXTENT
3 FEASIBLE, THE IMPACT OF THE REGULATED OPERATIONS.
4 STAFF WAS DIRECTED TO DEVELOP A STANDARD FORM WHICH
5 NONREGULATED RECYCLING OPERATIONS CAN VOLUNTARILY
6 REPORT THESE RESIDUAL PERCENTAGES TO THE LEA'S AND
7 THE BOARD.

8 NO. 8, THE BOARD DIRECTED STAFF TO
9 ESTABLISH A PROCEDURE FOR DEVELOPING COMPLIANCE
10 SCHEDULES FOR OPERATIONS THAT CANNOT MEET THE
11 RESIDUAL PERCENTAGE LIMITS. AND, OF COURSE, THE
12 BOARD DIRECTED STAFF TO DEVELOP DRAFT REGULATIONS.

13 SO I WOULD CONCUR TODAY THAT WE NEED
14 TO MOVE FORWARD WITH THE REGULATIONS WITH THE
15 CURRENT FORMAT OF THE 10-PERCENT SOLUTION. I
16 BELIEVE THAT WE HAVE ALTERNATIVE PLANS OUT THERE TO
17 GIVE THE LEA'S THE SURVEY TIME. MAYBE SOME NEW
18 INFORMATION WILL DEVELOP, BUT WE HAVE TO STAY ON
19 COURSE BECAUSE WE HAVE LAGGED TWO YEARS HERE. AND
20 I HIGHLY THE SUPPORT THE 10-PERCENT SOLUTION WITH
21 REGARDS TO GIVING -- IMPLEMENTING ITEMS 6, 7, 8,
22 AND 9.

23 AND THEN I WOULD ALSO SUPPORT A CAP.
24 THAT'S ONE THING THAT WE SUPPORTED BACK IN 1995,

25

AND I BELIEVE THE CUTOFF IS A HUNDRED CUBIC YARDS A
109

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1 DAY FOR SMALL VOLUME TRANSFER STATIONS WITH A PLAN
2 OF OPERATION. SO THAT WOULD BE A TARGET THRESHOLD
3 THAT WE WOULD BE LOOKING AT SHOULD THE CAP ISSUE BE
4 BROUGHT BACK INTO FOCUS AS PART OF THAT ALTERNATIVE
5 PLAN. THANK YOU.

6 CHAIRMAN FRAZEE: LARRY SWEETSER, DID YOU
7 WISH TO COMMENT?

8 MR. SWEETSER: ONE CLARIFICATION. YOU'RE
9 ONLY TAKING ITEM 1?

10 CHAIRMAN FRAZEE: YES.

11 MR. SWEETSER: I'M SURE THERE'S A NUMBER
12 OF OTHER PEOPLE THAT MAY WANT SPEAK. I DON'T KNOW
13 IF, GIVEN THE HOUR, YOU MAY WANT TO TAKE A LUNCH
14 BREAK TO DO SO.

15 CHAIRMAN FRAZEE: WE'RE CONSIDERING THAT.
16 I DIDN'T KNOW WHETHER WE COULD DISPOSE OF THIS ITEM
17 BEFORE LUNCH OR NOT.

18 MR. SWEETSER: I HAVE A NUMBER OF ITEMS TO
19 BRING UP, INCLUDING ADDRESSING SOME OF THE ISSUES
20 THAT WERE RAISED EARLIER. I DON'T KNOW IF YOU WANT
21 TO DO THAT NOW.

22 CHAIRMAN FRAZEE: YOU WANT TO TAKE A BREAK
23 NOW AND THIS MAY TAKE A LITTLE.

24 MEMBER RELIS: I HAVE A LUNCH MEETING.

25

CHAIRMAN FRAZEE: LET'S TAKE OUR LUNCH
110

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1 BREAK NOW. HOW ABOUT 1:30. WE'LL STAND IN RECESS
2 UNTIL 1:30.

3 (RECESS TAKEN.)

4 CHAIRMAN FRAZEE: THE MEETING WILL COME TO
5 ORDER. WHEN WE BROKE FOR LUNCH, WE WERE IN THE
6 MIDDLE OF THE ITEM, THE UPDATE AND DISCUSSION OF
7 RECOMMENDATIONS FOR REVISION OF THE INFORMAL DRAFT
8 REGULATIONS FOR TRANSFER, MATERIAL RECOVERY, AND
9 PROCESSING OPERATIONS AND FACILITIES. AND WE WERE
10 IN DISCUSSION OF THE OPTIONS FOR THE COMMITTEE, THE
11 FIRST ITEM, THE TWO-PART TEST AND DISCUSSING THE
12 10-PERCENT RESIDUAL. SO WE'LL GO TO LARRY
13 SWEETSER.

14 MEMBER RELIS: MR. CHAIR, I JUST HAVE A
15 COUPLE OF EX PARTES I'D LIKE TO REPORT. ONE WITH
16 KAREN JARRELL OF SMURFIT AND WITH RICHARD HANSON OF
17 L.A. COUNTY ON THE MATTER BEFORE US.

18 MEMBER JONES: I'VE GOT A COUPLE TOO WITH
19 EVAN EDGAR, AND I DON'T KNOW, THERE WAS THREE OR
20 FOUR PEOPLE STANDING BACK THERE. THEY'RE ALL THE
21 SAME ONES IN THE ROOM ON THE SAME ISSUE THAT WE'VE
22 BEEN TALKING ABOUT.

23 CHAIRMAN FRAZEE: OKAY. NOW, MR.

24 SWEETSER.

25 MR. SWEETSER: THANK YOU, CHAIRMAN FRAZEE,
111

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1 MEMBERS RELIS AND JONES. MY NAME IS LARRY
2 SWEETSER, DIRECTOR OF REGULATORY AFFAIRS FOR NORCAL
3 WASTE SYSTEMS, ONE OF THE ORIGINAL RECYCLERS IN THE
4 STATE. IT SEEMS LIKE A REUNION TIME TO REVISIT
5 THIS ISSUE, AND IT'S BEEN GOING ON FOR SOME TIME.
6 AND I KNOW WE ALL WANT IT TO COME TO A HEAD, BUT I
7 THINK THERE'S SOME CRUCIAL DECISIONS THAT WE NEED
8 TO BE LOOKING AT SOME OF THE ISSUES TODAY, I THINK
9 WE CAN PROVIDE THAT KIND OF INPUT WHERE WE CAN
10 SHAPE THAT DIRECTION AND BE ON WITH IT AND GET ON
11 WITH THE IMPLEMENTATION PHASE.

12 I THINK BEFORE WE GET SOME OF THE
13 ISSUES, I'D LIKE TO DIGRESS A LITTLE TO SOME OF THE
14 HISTORY BECAUSE I THINK IT'S IMPORTANT FOR THOSE IN
15 THE AUDIENCE THAT WEREN'T HERE IN THOSE DISCUSSIONS
16 AS WELL AS SETTING THE RECORD FOR LATER WHEN WE GO
17 THROUGH THE REGULATORY PROCESS.

18 YOU HAVE IN FRONT OF YOU WHAT IT USED
19 TO BE LIKE IN THE OLD DAYS. THE SLIDE OF THE OLD
20 GARBAGE TRUCKS AND OUR WAGONS OUT THERE AND THE
21 HORSES AND ALL THE WORK THAT WE USED TO PUT INTO
22 DIVERTING MATERIAL.

23 AND IN THE GOOD OLD DAYS, WE HAD
24 GARBAGE AND WE HAD JUNK, AND THERE WAS ALWAYS A

25 CLEAR LINE OF DISTINCTION BETWEEN THEM. AND AS THE
112

CLEAR LINE OF DISTINCTION BETWEEN THEM. AND AS THE

112

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1 YEARS WENT BY AND AS WE GOT FURTHER ALONG, ALONG
2 COMES AB 939, AND WE END UP WITH SORT OF THE MIDDLE
3 GROUND OF WHERE DOES IT FIT BETWEEN THE SCRAP AND
4 THE RECYCLABLES AND THE SOLID WASTE AND EVERYTHING
5 ELSE.

6 AND AS FURTHER REFERENCE, WE HAVE
7 WHAT WE STARTED DEALING WITH IN A LOT OF THESE
8 FACILITIES WAS WHAT I ALWAYS CALLED THE ONE DEBRIS
9 BOX OUT IN THE BOONIES WHERE WE HAVE SMALL VOLUME
10 TRANSFER STATIONS THAT BASICALLY HAD TO GO TO A
11 FULL-BLOWN SOLID WASTE PERMIT, RFI'S, AND EVERY-
12 THING ELSE JUST TO COLLECT ONE DEBRIS BOX WORTH OF
13 GARBAGE OUT THERE, SO THAT'S WHERE WE STARTED A LOT
14 OF THE TIERS, TO BE LOOKING AT THOSE KINDS OF
15 FACILITIES.

16 SO NOBODY FELT THAT THIS WAS
17 APPROPRIATE FOR THESE TYPES OF FACILITIES TO BE
18 GOING TO THAT LEVEL OF EFFORT, AND I THINK WE STILL
19 ALL AGREE WITH THAT. MAYBE WE NEED SOME
20 REGULATION, BUT NOT THE FULL BLOWN. THEN WE RUN
21 INTO -- FROM THE GOOD SIDE WE RUN INTO THE BAD.
22 THIS IS A FACILITY THAT USED TO EXIST. THEY'VE
23 CLEANED UP SOMEWHAT, BUT THIS WAS TOTALLY

24 UNPERMITTED FOR A NUMBER OF YEARS.

25 THEN AS YOU SAW THE MORNING, FROM THE
113

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1 GOOD, THE BAD, WE GO TO THE UGLY. THAT'S SORT OF
2 HOW EXTREME THESE REGULATIONS CAN GET. AND LIKE IT
3 OR NOT, A LOT OF THESE REGULATIONS THAT WE'RE
4 PUTTING FORWARD ARE NOT TO DEAL WITH THE GOOD GUYS,
5 THE ONES ON BOTH SIDES OF THIS ISSUE, BOTH ON THE
6 SCRAP SIDE AND ALSO ON THE SOLID WASTE SIDE, ALL OF
7 US DOING OUR DIVERSION. WE'RE TRYING TO SET UP THE
8 RULES AND THE FRAMEWORK TO AVOID THESE TYPES OF
9 SITUATIONS. NOBODY LIKES TO GO SPENDING THE MONEY
10 TO BE CLEANING UP THOSE TYPES OF SITUATIONS WHEN
11 THESE PEOPLE SHOULD BE COMPLYING WITH THE LAWS
12 THAT THE REST OF US DO. I THINK IT GIVES ALL OF US
13 A BAD NAME.

14 AND IT STILL CONTINUES. AND YOU SAW
15 THE ONE THE MORNING THAT MEMBER JONES HELD UP.
16 WE'VE DEALT WITH THE GUY AS WELL AS FAR AS ISSUES
17 AND PEOPLE THAT ARE UNDER THE GUISE OF RECYCLING
18 TRYING TO COLLECT SOLID WASTE.

19 AND JUST ONE MORE POINT OF OUR
20 DOWN-THE-MEMORY-LANE TRIP. YOU DON'T HAVE TO READ
21 ALL THAT, AND I CAN PROVIDE IT IF YOU NEED TO, BUT
22 A LOT OF THIS STARTED, AS EVAN MENTIONED THIS
23 MORNING, WAY BACK IN 1991 WHEN YOUR EXECUTIVE

24 DIRECTOR WAS TRYING TO CLARIFY SOME OF THE
25 PROVISIONS OF WHAT IS IN, WHAT IS OUT, THE 15 CUBIC

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1 YARDS, ETC. WE WENT THROUGH A NUMBER OF
2 ITERATIONS. WE'VE GONE THROUGH POLICY COMMITTEE.
3 WE'VE GONE THROUGH PERMIT COMMITTEE. WE'VE HAD A
4 VARIETY OF OTHER COMMITTEES, THE GENERAL
5 METHODOLOGY ADVISORY COMMITTEE. WE'VE ALL BEEN
6 WRESTLING WITH THIS ISSUE, TRYING TO FIGURE OUT
7 WHAT IS IN, WHAT IS OUT, WHAT IS SOLID WASTE, WHAT
8 ARE THE EFFECTS FROM THAT.

9 SO THERE'S A LOT OF DISCUSSION,
10 ESPECIALLY IN THE GMAC ON WHAT THE ENVIRONMENTAL
11 THREATS WERE. AND WE HAD A RANKING SYSTEM AND
12 EVERYTHING ELSE, AND I WOULD PLEAD WITH YOU NOT TO
13 IGNORE THAT WORK BECAUSE A LOT OF IT WAS DONE.
14 THAT'S WHERE A LOT OF THESE GRAPHS CAME UP THAT
15 WERE REFERENCED EARLIER IS FROM THAT WORK.

16 SO WHERE THAT LEAVES US IS WITH OUR
17 TIERED STRUCTURE. I THINK WE'VE GOT FULL AGREEMENT
18 FROM PARTIES THAT THERE IS THE POSSIBILITY TO FIT
19 THESE THINGS INTO SOME SORTS OF TIERS SO AS THE
20 OPERATION GETS MORE COMPLEX, WE MOVE UP THE LEVEL
21 OF TIERS. AND YOU CAN START WITH AN EXCLUDED LEVEL
22 OF FACILITIES, THOSE THAT ARE HANDLING SOLID WASTE,
23 BUT ARE OUTSIDE THE TIERS IN A SENSE, BUT THEY

24 STILL HAVE SOME POTENTIAL FOR REGULATION BECAUSE
25 THEY ARE HANDLING SOLID WASTE, AND THOSE ARE SOME
 115

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1 EXCLUSIONS THAT ARE ALREADY IN THERE.

2 YOU MOVE UP TO A NOTIFICATION PHASE,
3 WHICH HAS BEEN DEFINED AS NOT BEING A PERMIT, BUT
4 THERE ARE FACILITIES THAT NEED TO BE UNDER THAT
5 LOWER LEVEL. THEN YOU TAKE A BIG JUMP UP TO
6 REGISTRATION, WHICH DOES CONSTITUTE A PERMIT. THEY
7 ARE HANDLING SOLID WASTE. THERE'S NO QUESTION
8 ABOUT IT. BUT THEY DON'T DESERVE A FULL-BLOWN
9 PERMIT. SOMETHING LIKE OUR DEBRIS BOX OUT IN THE
10 WOODS.

11 WE ALSO GET TO STANDARDIZED TIERS,
12 AND I DON'T WANT TO ADDRESS THAT TOO MUCH BECAUSE
13 WE ALWAYS HAVE ISSUES WITH THAT ONE AS WELL, BUT
14 THAT WAS DESIGNED TO ADDRESS THOSE FACILITIES THAT
15 WERE SLIGHTLY MORE COMPLEX, BUT HAD STANDARD
16 CONDITIONS THAT THEY HAD TO LIVE WITH.

17 THEN WE GET TO THE PLATEAU OF THE
18 FULL-BLOWN PERMIT WHERE MANY OF US HAVE BEEN EVEN
19 WITH OUR SMALL DEBRIS BOXES AND LOOKING TO STEP
20 DOWN, BUT WE HAVE THAT FULL PERMIT OUT THERE FOR
21 THOSE TYPES OF FACILITIES THAT NEED TO DEMONSTRATE
22 THAT THEY COMPLY WITH A HIGHER STANDARD.

23 THEN YOU CAN JUMP OFF THE CLIFF THERE
24 AND GET INTO WHAT IS OUTSIDE THE WASTE BOARD'S

25 AUTHORITY, THOSE FACILITIES THAT I THINK WE ALL
 116

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1 AGREE IN CONCEPT DON'T NEED THE LEVEL OF SCRUTINY
2 THAT THE OTHER SOLID WASTE ACTIVITIES DO. THEY
3 NEED TO BE OUTSIDE THAT. BUT WHERE WE RUN INTO
4 PROBLEMS IS WHERE DO YOU DRAW THAT LINE.

5 PHILOSOPHICALLY YOU CAN SAY I'M A
6 SCRAP PAPER OR I'M A SCRAP METAL PERSON AND I DON'T
7 HANDLE SOLID WASTE; BUT ON THE OTHER HAND, WE FEEL
8 IT HANDLES SOLID WASTE. AND WHEN YOU END UP WITH
9 RESIDUAL AMOUNTS, THAT'S WHERE YOU RUN INTO THE
10 PROBLEM. SO UNLESS THAT OPERATION IS A HUNDRED
11 PERCENT CLEAN WITH ZERO RESIDUAL, IT'S DIFFICULT TO
12 SAY THEY'RE NOT HANDLING SOLID WASTE AND ARE
13 OUTSIDE THE LEVEL.

14 SO WE ARGUED AND ARGUED, AND WE
15 FINALLY CAME UP WITH A NUMBER, THE 10-PERCENT
16 RESIDUAL, BASED ON THE MIDDLE OF A BELL CURVE. BUT
17 IT ALSO DEALT WITH THE SOURCE SEPARATED ISSUE,
18 MATERIAL THAT WAS CLEAN ENOUGH COMING IN WITH VERY
19 LITTLE RESIDUAL LEFT OVER.

20 SO THAT DEFINITION HAS BEEN OUT THERE
21 FOR TWO YEARS. IT'S WORKING. WE'RE PLANNING
22 AROUND IT. AND I THINK THAT'S CRITICAL TO REMEMBER
23 AS WE GO THROUGH THE REVIEW ON THE TWO-PART TEST AS
24 FACILITIES HAVE BEEN DEVELOPED FOR THAT. AND SOME

25

PEOPLE LIKE TO THINK OF IT AS SORT OF A DART BOARD

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1 NUMBER THAT WAS CHOSEN. I KNOW A LOT OF WORK WENT
2 INTO THAT, BUT YOU HAVE TO MAKE A DECISION. YOU
3 HAVE TO COME UP WITH A NUMBER.

4 AND NO MATTER WHAT NUMBER YOU COME UP
5 WITH, IT'S GOING TO END UP WITH THE SAME SORT OF
6 ENFORCEMENT ISSUES AND VERIFICATION ISSUES AND
7 EVERYTHING ELSE. AND EVEN THOUGH THE NUMBER MAY
8 HAVE BEEN THE MIDDLE OF A BELL CURVE, I CAN
9 GUARANTEE YOU THAT WHATEVER NUMBER YOU SET UP OUT
10 THERE, YOU WILL END UP WITH THE SAME AMOUNT OF
11 PEOPLE ON ONE SIDE OR OTHER OF THAT LINE, NO MATTER
12 WHERE YOU PUT IT BECAUSE A LOT OF US ARE DEVELOPING
13 OUR FACILITIES RIGHT TO THAT POINT, AND SOME OF US
14 ARE GOING TO BE OVER EITHER INTENTIONALLY OR
15 INADVERTENTLY. AND ONCE YOU CROSS THAT LINE, YOU
16 DESERVE TO BE IN THAT HIGHER LEVEL.

17 SO I'M NOT TOO COMFORTABLE -- I'M NOT
18 COMFORTABLE AT ALL REVISITING THAT NUMBER. AS YOU
19 RECALL, WE WERE ACTUALLY PROMOTING A LOWER NUMBER
20 DOWN TO AROUND 2 PERCENT RANGE. WE FOUND THE 10
21 PERCENT LIVABLE. IF WE COULD GO BACK AND THOUGHT
22 WE HAD A CHANCE AT 2 PERCENT, WE WOULD DO SO, BUT I
23 THINK THE 10 PERCENT HAS WITHSTOOD THE TEST OF THE

24 LAST COUPLE YEARS. IT'S COME UP WITH A NUMBER.

25 AND I THINK BY GOING AHEAD WITH A POLICY DEALING

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1 WITH THAT 10 PERCENT, IT'S GOING TO BENEFIT YOU.

2 IT WILL BENEFIT THE STUDIES THAT THE LEA'S ARE

3 LOOKING AT BECAUSE NOW THEY HAVE A NUMBER THEY CAN

4 PLAY WITH IN THE SURVEY THAT SAYS WE'RE GOING TO

5 HAVE PEOPLE ON ONE SIDE OF THE LINE OR THE OTHER.

6 SO WITH THAT NUMBER IN PLACE, IT WILL

7 HELP THAT STUDY FAR BETTER TO BE ABLE TO SAY WHICH

8 SIDE OF THE LINE THOSE FACILITIES ARE ON. AND I'M

9 CONFIDENT IN THE BOARD THAT, JUST LIKE YOU DID ON

10 COMPOST, WHICH MANY PEOPLE APPLAUD YOU FOR, THAT

11 YOU REVISITED THAT ISSUE BASED UPON EVIDENCE. I

12 WOULD AGREE THAT IF YOU CAN FIND THE EVIDENCE,

13 LET'S GO BACK AND REVISIT THE 10-PERCENT NUMBER.

14 IF YOU CAN'T, THEN YOU'VE ALREADY

15 MADE THE DECISION AND WE CAN GO ON FROM THERE, BUT

16 TO KEEP HOLDING THE DECISION TOO MUCH IN ABEYANCE

I

17 THINK WILL CAUSE MORE PROBLEMS FOR THOSE OF US

18 TRYING TO PLAN AROUND IT. LET'S CLOSE THE DOOR --

19 WE CAN CLOSE THE DOOR, BUT LET'S NOT LOCK IT

BEHIND

20 OURSELVES SO WE CAN'T GO BACK THROUGH AND REVISIT

21 THAT.

22 AND BELIEVE ME, IF THERE ARE PEOPLE
23 THAT CAN PROVE, JUST LIKE SOME OF THE PICTURES
24 WE'VE PROVED, THAT THERE'S PEOPLE UNDERNEATH THAT
25 10 PERCENT THAT ARE A PROBLEM, LET'S BY ALL MEANS

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1 REVISIT IT. BUT I THINK YOU WILL FIND THAT THERE
2 ARE SOME AND THERE AREN'T.

3 ONE OF THE THINGS ON THE 10-PERCENT
4 NUMBER, AND WE ARGUED IT YEARS AGO, WAS THE
5 PUTRESCIBLE ISSUE. EVERYBODY SEEMS TO AGREE THAT
6 IF YOU HAVE A HUNDRED PERCENT PUTRESCIBLES IN THE
7 10 PERCENT, YOU'VE GOT A PROBLEM OUT THERE. BUT
8 NOBODY HAS BEEN ABLE TO FIGURE OUT AN EXACT
9 MEASUREMENT OF THAT PUTRESCIBLE LIMIT. WE CAN'T
10 EVEN COME TO AN AGREEMENT ON DEFINITIONS.

11 SO UNTIL WE DO SO, I HAVE TO OPERATE
12 ON THE ASSUMPTION THAT THAT 10 PERCENT IS A HUNDRED
13 PERCENT PUTRESCIBLE. AND THAT'S WHEN THE ARGUMENT
14 WAY BACK WHEN THAT WE WERE ARGUING FOR WHY THERE
15 NEEDED TO BE A CAP ON THE LEVEL. WE'RE STILL
16 SUPPORTIVE OF THE IDEA OF A CAP. WE THINK THAT
17 MAKES SENSE. IT DOESN'T ADDRESS THE WHOLE PIE, BUT
18 IT DOES CARVE OUT A PORTION OF THE PIE THAT THOSE
19 FACILITIES THAT ARE ABOVE A -- UNDERNEATH THE 10
20 PERCENT, BUT STILL CAUSE A PROBLEM, ADDRESS IT.

21 AND THE LAST POINT ON THAT IS THE
22 ENFORCEMENT ISSUE. I HAVE TROUBLE BELIEVING THAT
23 SOMEONE CANNOT GENERATE NUMBERS TO PROVE THAT

24 THEY'RE UNDER 10 PERCENT. ALL OF OUR MANAGERS CAN
25 DO IT ON THE BACK OF A NAPKIN ANY TIME I WANT THEM

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1 TO. THEY KNOW WHERE THEY'RE AT IN THOSE LEVELS.
2 ANYBODY THAT DOESN'T, I WOULD SUBMIT, EITHER
3 DOESN'T KNOW THEIR OPERATIONS AND SHOULDN'T BE IN
4 BUSINESS OR IS DIRECTLY LYING TO THE REGULATORS
5 THAT ARE ASKING. THEY CAN PRODUCE THOSE NUMBERS.
6 THE QUESTION IS THEY DON'T WANT TO. AND A LOT OF
7 THE LEA'S FIND IT DIFFICULT TO GO IN THERE AND
8 DEMAND THOSE NUMBERS.

9 AND THERE IS LANGUAGE IN THE DRAFT
10 REGULATIONS THAT ADDRESSES THAT AND PROVIDES SOME
11 INFORMATION THAT THE LEA'S CAN GO IN FOR THE FIRST
12 TIME AND DEMAND THAT ACCOUNTING. AND WITHOUT A
13 STRONG EMPHASIS ON THAT, THERE'S NEVER -- THE LEA'S
14 WILL NEVER BE ABLE TO GO IN THERE AND ENFORCE
15 AGAINST THESE TYPES OF FACILITIES. SO WE NEED A
16 LINE. WE NEED TO GO IN THERE, WE NEED TO ADDRESS
17 THE TYPE OF ISSUE. AND IF WE NEED MORE TIME TO
18 LOOK AT THAT, A LITTLE BIT OF TIME, THAT'S FINE.
19 IF WE GO ON TOO LONG, IT'S JUST GOING TO GET WORSE.

20 SO THAT'S MY COMMENT ON THE ITEM.
21 WE'LL BE COMING BACK FOR THE OTHER ITEMS AS WELL.

22 CHAIRMAN FRAZEE: OKAY. RICK BEST, DID
23 YOU WISH TO COMMENT ON THE FIRST ITEM, THE

24 10-PERCENT RESIDUAL?

25 MR. BEST: THANK YOU, MR. CHAIRMAN AND
 121

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1 COMMITTEE MEMBERS. RICK BEST WITH CALIFORNIANS
2 AGAINST WASTE. I'LL KEEP MY COMMENTS VERY BRIEF.
3 TWO ISSUES THAT I JUST WANTED TO ADDRESS.

4 THIS FIRST WAS THIS ISSUE WITH
5 REGARDS TO THE BOARD'S PRIOR 1995 POLICY. I THINK
6 YOU KNOW WE WERE IN SUPPORT OF IT. WE THINK IT
7 MAKES SENSE. IT REFLECTS THE BOARD'S STATUTORY
8 AUTHORITY OVER THE REGULATION OF SOLID WASTE
9 FACILITIES AND OPERATIONS, AND WE WOULD STRONGLY
10 URGE THAT THE BOARD MAINTAIN THE CURRENT FRAMEWORK
11 AND NOT PURSUE A WHOLE RETHINKING OF THE POLICY.

12 WITH REGARDS TO THE 10-PERCENT ISSUE,
13 I THINK -- IT WAS CERTAINLY RECOGNIZED WHEN THE
14 POLICY CAME BEFORE THE BOARD, WE THOUGHT IT SHOULD
15 HAVE BEEN PERHAPS 15 PERCENT OR A HIGHER NUMBER. I
16 THINK ONE OF THE ARGUMENTS THAT WAS MADE DURING THE
17 SELECTION OF THE 10 PERCENT WAS THAT THIS WILL
18 FORCE MANY OF THOSE THAT MAY BE HIGHER THAN THE
19 10-PERCENT THRESHOLD, IN THE 12- TO 15-PERCENT
20 RANGE, TO CLEAN UP THEIR OPERATIONS SO THAT THEY
21 WOULD FALL WITHIN THE 10-PERCENT RESIDUE THRESHOLD.

22 SO I THINK THAT'S PROBABLY HAPPENED
23 OVER THE LAST COUPLE OF YEARS. I THINK ONCE THE
24 REGULATIONS GO IN PLACE, I THINK MORE OF THAT WILL

25 HAPPEN. AND SO I THINK IT'S AN APPROPRIATE NUMBER,
 122

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1 AND AT THIS POINT I WOULDN'T RECOMMEND REVISITING
2 IT.

3 I WANTED TO RESPOND ALSO TO THIS
4 ISSUE THAT'S BEEN RAISED WITH REGARDS TO THE
5 TONNAGE CAP. WE AT THE POINT WOULD OPPOSE DOING A
6 TONNAGE CAP. I DON'T THINK IT PROPERLY REFLECTS
7 WHAT THE BOARD'S TWO-PART TEST POLICY WAS
8 RECOGNIZING. WHAT THE TWO-PART POLICY LOOKED AT,
9 NO. 1, IS THE MATERIAL BEING SOURCE SEPARATED AND,
10 NO. 2, IS THE 10-PERCENT RESIDUE THRESHOLD BEING
11 MET?

12 I THINK THOSE TWO THINGS TOGETHER
13 WORK TO ADDRESS THIS ISSUE WITH REGARDS TO BAD
14 ACTORS, TO FOLKS THAT REALLY AREN'T TRUE
15 RECYCLERS. I THINK BOTH OF THOSE TESTS WORKING
16 TOGETHER REFLECT THAT. I THINK IF YOU PUT A
17 TONNAGE CAP, YOU SUDDENLY CALL INTO QUESTION AS TO
18 WHAT THE TWO-PART TEST MEANS. IT -- IF YOU ARE
19 HANDLING SOURCE SEPARATED MATERIALS, IT SHOULDN'T
20 MATTER WHETHER YOU'RE HANDLING 10 TONS PER DAY OR A
21 100 TONS PER DAY, YOU'RE HANDLING SOURCE SEPARATED
22 MATERIAL THAT ISN'T SOLID WASTE. AND IF YOU PUT IN
23 A TONNAGE CAP, YOU SUDDENLY CALL INTO QUESTION THE

24 MEANING OF THAT. SO WE WOULD OPPOSE AT THIS POINT
25 DOING THAT.

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1 I THINK PERHAPS SOME MORE DISCUSSION
2 WITH REGARDS TO HOW TO ADDRESS THE PUTRESCIBLE
3 ISSUE, THAT MIGHT BE ONE WAY TO ADDRESS THAT
4 CONCERN, BUT I THINK AN OVERALL TONNAGE CAP ON
5 RESIDUE WOULD NOT BE APPROPRIATE AT THIS TIME. SO
6 THANK YOU.

7 CHAIRMAN FRAZEE: CHUCK WHITE.

8 MR. WHITE: THANK YOU, MR. CHAIRMAN,
9 MEMBERS OF THE COMMITTEE. WHEN I WALKED UP
10 OUTSIDE, EVERYBODY GROANED, SAYING, "OH, THE
11 MEETING IS GOING TO GO ON FOR TWO MORE HOURS."
12 I'VE ARRIVED, AND I HAVE EVERY INTENTION TO KEEP MY
13 COMMENTS VERY BRIEF AND TO THE POINT AS USUAL.

14 BASICALLY WE DO SUPPORT THE TWO-PART
15 TEST, THAT WE'VE LEARNED TO LIVE WITH IT. IT WORKS
16 VERY WELL. THIS 10-PERCENT THRESHOLD SEEMS TO WORK
17 FOR US. I THINK I WOULD NOT URGE THE BOARD AT ALL
18 TO CONSIDER ANY BROAD CHANGES TO THE TWO-PART TEST,
19 MAYBE SOME CLARIFICATIONS AND SOME ISSUES AROUND
20 THE EDGES, BUT GENERALLY WE BELIEVE IT WORKS WELL.
21 AND AFTER ALL THE EFFORT WE WENT, ALL THOSE YEARS
22 TO GET TO THE POINT WHERE YOU CAME UP WITH YOUR
23 POLICY IN OCTOBER, I THINK IT WAS, OF '95, I WOULD
24 HATE TO REALLY REOPEN THAT WHOLE AREA AGAIN.

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1 WITH RESPECT TO THE TWO-PART TEST, AND ONE WHICH WE
2 FOUND A LITTLE BIT TROUBLESOME AND WOULD LIKE TO
3 GET SOME GUIDANCE FROM THE BOARD IS WHEN YOU HAVE A
4 FACILITY THAT IS OPERATING AT ONE POINT IN TIME,
5 SAY, BELOW 10 PERCENT, BUT THEN DUE TO VARIOUS
6 OTHER CHANGES, THROUGH LIKE MARKET CONDITION
7 CHANGES, AND SLIP OVER THAT 10 PERCENT, ARE YOU
8 AUTOMATICALLY GOING TO HAVE TO GO UP TO GET A
9 REGISTRATION PERMIT OR NOTIFICATION? AND THEN IF
10 YOU STEP BACK DOWN AGAIN, DO YOU RESCIND IT? A
11 LITTLE MORE GUIDANCE ABOUT HOW YOU TRANSITION BASED
12 UPON EXTERIOR FACTORS OR MARKET CONDITIONS THAT
13 MIGHT FLUCTUATE TO ONE SIDE OR THE OTHER THE 10
14 PERCENT.

15 NOT TO SUGGEST YOU SHOULD STAY ABOVE
16 THE 10 PERCENT FOR VERY LONG, BUT MAYBE PROVIDE A
17 PROCESS FOR FACILITIES TO GIVE NOTICE TO THE LEA
18 AND BOARD THAT THEY'RE AT THE FRINGE AND NEED A
19 LITTLE TIME TO RETURN TO BELOW THE 10-PERCENT
20 PROCESS WITHOUT NECESSARILY AUTOMATICALLY FORCING
21 YOU, WITH NO OTHER OPTION, TO GO INTO THE NEXT TIER
22 UP, WHICH MAY ONLY BE FOR A VERY SHORT PERIOD OF
23 TIME.

24 I'M HOPING THERE'S SOME DEGREE OF
25 FLEXIBILITY THAT CAN BE WORKED OUT THROUGH
125

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1 SUBSEQUENT DISCUSSIONS.

2 IN A SENSE IT RAISES THE SPECTER, DO
3 YOU NEED A PERMIT ONE DAY, AND A PERMIT NOT THE
4 NEXT DAY, AND A PERMIT ONE DAY AND GOING BACK AND
5 FORTH. I WOULD HOPE WE COULD AVOID THAT KIND OF
6 SITUATION.

7 WITH RESPECT TO THE TONNAGE CAP,
8 WASTE MANAGEMENT HAS HISTORICALLY BEEN OPPOSED TO
9 THE IDEA OF A TONNAGE CAP PRIMARILY FROM THE
10 STANDPOINT THAT IT BASICALLY MEANS VERY LARGE, VERY
11 EFFICIENT OPERATIONS. BUT IF -- EVEN THOUGH THEY
12 MAY BE AT VERY LOW RESIDUAL PERCENTAGES, SAY IN THE
13 2-, 3-, 5-PERCENT RANGE, BECAUSE YOU HAVE A NET
14 TONNAGE THAT'S ABOVE AMOUNT, YOU HAVE TO GET A
15 PERMIT; WHEREAS, A SMALLER, LESS EFFICIENT
16 OPERATION THAT WOULD BE BELOW -- BOTH BELOW THE
17 PERCENTAGE AND THE CAP WOULD BE EXEMPT FROM GETTING
18 A PERMIT.

19 SO IN A SENSE THE MESSAGE WOULD BE
20 ENCOURAGING SMALLER SEPARATE OPERATIONS RATHER THAN
21 VERY LARGE, EFFICIENT OPERATIONS. AND SO ON THE
22 SURFACE OF IT, WE WOULD BE OPPOSED TO THE IDEA OF
23 IMPOSING A CAP. HOWEVER, I HAVE TO AGREE THAT

24 LARRY DOES RAISE THIS ISSUE OF THE PUTRESCIBLE
25 WASTE SITUATION. AND IF THERE WAS A CAP, IF IT
WAS

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1 JUST SIMPLY DIRECTED SOLELY TO PUTRESCIBLE WASTES
2 THAT YOU'RE HANDLING, THAT WOULD BE SOMETHING --
3 AND I DON'T HAVE THE LANGUAGE OR THE SUGGESTION OF
4 HOW YOU WOULD DO THAT, AND I DO AGREE WITH LARRY
5 THAT THERE ARE PROBLEMS WITH HOW YOU DEFINE
6 PUTRESCIBLE. BUT IF THE BOARD DOES DECIDE TO GO IN
7 THE DIRECTION OF A CAP, WE WOULD HOPE THAT SUCH A
8 CAP WOULD BE LIMITED ONLY TO PUTRESCIBLE WASTE TO
9 ADDRESS NORCAL'S AND LARRY SWEETSER'S CONCERNS.

10 SO THAT'S REALLY ALL THE SUM AND
11 SUBSTANCE OF MY COMMENTS WITH RESPECT TO THE FIRST
12 ITEM. AND I PRESUME WE'LL COME BACK AND DO THOSE
13 OTHER ITEMS. THANK YOU.

14 CHAIRMAN FRAZEE: WE WILL. KAREN, DID YOU
15 WISH TO SPEAK ON THE ITEM?

16 MS. JARRELL: THANK YOU. KAREN JARRELL
17 WITH JEFFERSON SMURFIT CORPORATION, SMURFIT
18 RECYCLING.

19 GOING TO BE VERY BRIEF AND JUST SAY
20 THAT WE ECHO THE REMARKS THAT RICK BEST MADE, AND
21 WE ECHO THE REMARKS THAT CHUCK WHITE JUST MADE,
22 THAT WE DON'T -- WE WOULD OPPOSE A CAP ALSO.

23 AND THE SMALL VERSUS THE LARGE
24 FACILITIES, THAT WOULD CAUSE, IN OUR OPINION,

25

SOMEWHAT OF A -- I DON'T WANT TO SAY A WAR BETWEEN

127

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1 THE SMALL AND THE LARGE, BUT CERTAINLY A DIFFERENCE
2 BETWEEN HOW WE DO OUR OPERATIONS. IN OUR 11
3 FACILITIES WE HAVE THE SMALLEST THAT TAKES IN
4 PROBABLY 2,000 TONS A MONTH, THE LARGEST PROBABLY
5 TAKES IN SOMEWHERE BETWEEN 9 AND 10,000 TONS A
6 MONTH. IT COULD BE WHERE IF YOU HAD A VOLUME CAP,
7 THAT WE WOULD HAVE ONE THAT HAD TO BE PERMITTED AND
8 ONE THAT DID NOT, BUT WE'RE ALL DEALING IN THE SAME
9 THING, AND THAT IS COMMODITIES. WE'RE NOT DEALING
10 IN SOLID WASTE. WE'RE DEALING IN WHAT WILL
11 EVENTUALLY BE FEEDSTOCK TO OUR MILLS. SO WE WOULD
12 OPPOSE THE CAP.

13 CHAIRMAN FRAZEE: THANK YOU. DIANE KELLY,
14 REPRESENTING WEYERHAEUSER.

15 MS. KELLY: YES, MR. CHAIRMAN, COMMITTEE
16 MEMBERS. I TOO RISE ON BEHALF OF WEYERHAEUSER
17 COMPANY TO OPPOSE A CAP. WE WENT THROUGH ALL OF
18 THIS AGAIN -- I KNOW EVERYBODY IS TIRED OF HEARING
19 ABOUT WHAT WE DID TWO YEARS AGO. A CAP WAS
20 SUGGESTED AT THAT TIME, AS WAS WE TRIED TO DEFINE
21 THE DIFFERENCE BETWEEN PUTRESCIBLE AND RESIDUAL.
22 WE SPENT I CANNOT TELL YOU HOW MUCH TIME TRYING TO
23 DEFINE PUTRESCIBLE. AT ONE POINT IN THE WHOLE
24 PROPOSAL, THERE WAS A PERCENTAGE OF PUTRESCIBLE

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1 NOT PUTRESCIBLE.

2 WE HANDLE COMMODITIES. THE SOURCE
3 SEPARATED RECYCLABLES THAT COME IN THE FRONT HAVE
4 AN AMOUNT OF RESIDUAL OUT THE BACK THAT COULD VARY
5 FROM PAPER THAT YOU COULD NOT USE, IT COULD BE
6 BALING WIRE OR PLASTICS, SOMETHING LIKE THAT THAT
7 YOU CANNOT USE IN THE PROCESS, BUT IT'S NOT
8 PUTRESCIBLE WASTE.

9 SO WE ENCOURAGE YOU NOT TO ADOPT A
10 CAP. OUR BUSINESS DECISIONS SOMETIMES ARE MADE
11 OUTSIDE OF THE RULEMAKING PROCESS HERE, AND YOU
12 MIGHT DECIDE TO HAVE A LARGE RECYCLING FACILITY OR
13 SMALL RECYCLING FACILITY. AND WE DO NOT HANDLE
14 SOLID WASTE, SO WE DON'T FEEL THAT WE SHOULD BE
15 CAPPED OUT BY ANY AMOUNT OF TONNAGE INTO OUR
16 PLANTS. THANK YOU.

17 CHAIRMAN FRAZEE: THANK YOU. IS THAT
18 EVERYONE TO BE HEARD ON THAT PARTICULAR POINT?

19 NEXT ITEM -- WELL, LET'S TAKE A
20 MOMENT HERE AND BE SURE WHERE WE'RE GOING WITH THE
21 ITEM. YOUR SUGGESTION WAS THAT WE ALLOW THE DRAFT
22 REGULATIONS TO PROCEED, BUT HOLD OFF ON THE
23 DECISION ON THE ITEM?

24 MEMBER RELIS: WELL, IN THE VIEW THAT I
25 THINK I REFLECT LET'S NOT CHANGE IT UNLESS THERE'S
 129

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1 EVIDENCE TO SUPPORT A CHANGE. RESEARCH APPARENTLY
2 IS UNDER WAY TO SEE IF THERE'S EVIDENCE. AT THE
3 BREAK I WAS THINKING THAT, YOU KNOW, I HOPE WE GET
4 THE EVIDENCE, WHATEVER IT IS, IN A FORMAT THAT
5 IS -- COULD STAND SCRUTINY.

6 IN OTHER WORDS, IF WE WERE TO USE IT
7 AS A BASIS, AND I'M NOT SAYING WE'RE GOING TO USE
8 IT AS A BASIS, BUT IF WE WERE TO USE IT AS A BASIS
9 FOR A DECISION, THEN THE SURVEY SHOULD BE ABLE TO
10 STAND ON ITS MERITS. AND I DON'T KNOW WHAT THAT
11 DOES TO THE SURVEY, BUT I THINK WE NEED TO HAVE
12 SOME REASONABLE SCIENTIFIC OR SAMPLING BASIS THAT
13 WE COULD THEN REFERENCE.

14 BUT -- SO MY SENSE WAS LET'S WAIT AND
15 SEE ON THAT PART. KEEP THE REGULATIONS MOVING.
16 DEAL WITH THESE OTHER ISSUES AND GENERALLY KEEP IT
17 ALIVE.

18 MEMBER JONES: YOU KNOW, I OFFERED THE
19 99-TON CAP ON RESIDUALS BECAUSE I THOUGHT THERE WAS
20 A FAIRNESS ISSUE INVOLVED. AND -- BUT, YOU KNOW,
21 IF PEOPLE DON'T WANT THAT, I CAN LIVE WITH THAT.

22 BUT WHAT I NEED SOME CLARIFICATION ON
23 THEN IS THAT IT SAYS IN THE ITEM THAT RECYCLING

24 OPERATIONS RECEIVING LOADS OF MIXED OR MUNICIPAL
25 SOLID WASTE WILL NOT QUALIFY UNDER THE PROPOSED
 130

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1 REGULATIONS AS RECYCLING OPERATIONS. DOES THAT
2 MEAN THAT IF THEY ACCEPT THOSE KINDS OF LOADS THAT
3 HAVE MUNICIPAL SOLID WASTE IN THEM, THAT THEY'RE
4 AUTOMATICALLY PUT INTO THAT OTHER TIER? HOW DO WE
5 KNOW THAT?

6 MS. RICE: YOU'RE REFERRING TO THE
7 TWO-PART TEST?

8 MEMBER JONES: RIGHT. YEAH. AND ONCE
9 THEY ACCEPT THOSE TYPES OF LOADS AND IT'S PROVEN,
10 THEN THEY'RE IN A SOLID WASTE FACILITY --

11 MS. RICE: THEY HAVE FAILED THE TWO-PART
12 TEST.

13 MEMBER RELIS: WELL, AND THAT'S WHERE I
14 THINK WHAT I'M HEARING FROM THE LEA'S, HOW WOULD
15 YOU KNOW. THAT KIND OF GETS US BACK TO WHERE WE
16 WERE WHEN WE WERE DISCUSSING THE VERMICOMPOST
17 ISSUE. WE SAW WASTE COMING TO A FACILITY THAT THE
18 LEA THERE SAID WAS -- THEY WERE TREATING AS SOLID
19 WASTE, NOT AS SOURCE SEPARATED RECYCLABLE MATERIAL
20 BECAUSE IT HAD PUTRESCIBLES IN IT AND OTHER ITEMS.

21 BUT -- SO THAT'S -- THAT SEEMS TO ME
22 THE GRAY AREA. WE HAVE NOT BEEN ABLE TO DEFINE
23 PUTRESCIBLES, NOR HAVE WE DETERMINED, AS YOU
24 RAISED, STEVE, HOW WOULD YOU KNOW WHETHER A

25 FACILITY RECEIVED THAT OR NOT BECAUSE, CLEARLY, I
 131

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1 THINK WE'RE ALL OF ONE MIND. IF THEY RECEIVED IT,
2 AND I EVEN THINK I SAW HEADS NODDING FROM THE PAPER
3 FOLKS, THAT CLEARLY IF THEY RECEIVED PUTRESCIBLES,
4 THEY'D BE IN AGREEMENT THAT THEY WOULD NEED TO COME
5 TO US FOR A PERMIT. BUT --

6 MEMBER JONES: WELL, I WANT TO GO DOWN
7 THAT ROAD. I WANT TO ASK A QUESTION BECAUSE NOT
8 SITTING HERE WHEN YOU WENT THROUGH THIS IN OCTOBER,
9 THERE WAS A REFERENCE TO THE TENNIS SHOES AND TO
10 THE INDISCRIMINATE BANANA PEEL. IF A FACILITY IS
11 ACCEPTING WASTE FROM A GENERATOR, AND THE
12 DEFINITION IS THAT IT HAS BEEN SEPARATED FOR REUSE
13 OR SOURCE SEPARATED, AND THEY DON'T HAVE ANY OTHER
14 CONTAINERS AT THAT GENERATOR FACILITY FOR
15 PUTRESCIBLES AND FOR ALL THOSE OTHER INDISCRIMINATE
16 BANANA PEELS AND THOSE TYPES OF THINGS, IT WOULD BE
17 LOGICAL THEN THAT THE ONLY MATERIAL GOING INTO THAT
18 SOURCE SEPARATED CONTAINER WAS THE ENTIRE MUNICIPAL
19 WASTESTREAM FROM THAT FACILITY, RIGHT.

20 DOES THAT -- ARE THOSE LOADS EXCLUDED
21 FROM FACILITIES THAT ARE RECYCLING FACILITIES
22 BECAUSE THEY'RE CARRYING THE MUNICIPAL WASTESTREAM
23 OF THAT GENERATOR?

24 MS. RICE: IF I UNDERSTAND THE QUESTION,

25

AND I'M SURE OTHERS WILL JUMP IN IF I'M NOT

132

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1 UNDERSTANDING THE QUESTION, JUST BECAUSE SOMEONE
2 SAYS SOMETHING IS SOURCE SEPARATED DOES NOT MAKE IT
3 SO. YOU COULD HAVE -- IT GOES TO -- YOU'RE TALKING
4 ABOUT THE INTENT OF THE GENERATOR OR THE INTENT OF
5 THE DISPOSER. IF THE MATERIAL IS MIXED MSW, BUT
6 SOMEONE PUTS IT IN A BOX AND SAYS THIS IS MY SOURCE
7 SEPARATED MATERIAL, IT'S GOING TO A RECYCLING
8 FACILITY, IT IS, THEREFORE, EXEMPT FROM REGULATION
9 BASED ON YOUR TWO-PART TEST, I WOULD THINK WE WOULD
10 NEED TO HAVE SOME GUIDANCE FOR THE LEA TO DETERMINE
11 WHEN THAT IS NOT SOURCE SEPARATED MATERIAL.

12 MEMBER JONES: WHAT I WANT TO KNOW IS IF
13 THAT RECYCLING FACILITY IS ACCEPTING THAT MATERIAL
14 ON AN ONGOING BASIS, DOES THAT THEN TAKE THEM OUT
15 OF THE RECYCLING FACILITY DEFINITION AND PUT THEM
16 INTO MUNICIPAL SOLID WASTE?

17 MS. RICE: I WOULD SAY YES. THAT'S JUST
18 MY OPINION BASED ON WHAT YOU'VE SAID.

19 MEMBER JONES: I THINK IT'S IMPORTANT. IF
20 WE'RE NOT GOING TO DEAL WITH THE RESIDUAL ISSUE, IF
21 WE'RE NOT GOING TO DEAL WITH THE CAP, WE'RE LOOKING
22 AT RESIDUAL IN HERE ON A MONTHLY BASIS, WHERE EVERY
23 OTHER PERMIT WE HAVE IN THE STATE IS ON A DAILY

24 BASIS, WHICH I DON'T QUITE UNDERSTAND, THEN IF
AN

25 LEA IS NOT SURE THAT THE MATERIAL IS, IN FACT,
133

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1 SOURCE SEPARATED, THEN IF YOU GO BACK TO THE
2 TWO-PART TEST, IT SAYS THAT THAT GENERATOR IS
3 PUTTING THAT MATERIAL INTO A BOX AND MAKING A
4 CONSCIOUS DECISION TO DO THAT, AND THERE IS NO
5 OTHER BOX, THERE IS NO OTHER RECEPTACLE, THEN
6 THAT'S MUNICIPAL SOLID WASTESTREAM IF THEY HAVE A
7 KITCHEN AND THEY HAVE A RESTAURANT OR THEY HAVE
8 WHATEVER THEY HAVE. YOU KNOW WHAT I MEAN? WE
9 DON'T ALL JUST GENERATE A HUNDRED PERCENT PAPER OR
10 RECYCLABLE.

11 AND I THINK THE REASON I'M MAKING AN
12 ISSUE OUT OF THIS IS BECAUSE IF WE'RE NOT GOING TO
13 REGULATE, IF WE'RE NOT GOING TO SEE A DIFFERENCE
14 BETWEEN THE PERSON THAT RUNS A FACILITY AND EXPORTS
15 3 OR 400 TONS A DAY TO A LANDFILL AND THEY'RE NOT
16 THE GENERATOR, THEN I THINK THAT WE NEED TO LOOK AT
17 THE SOURCE OF THE MATERIAL AND MAKE SURE THAT THE
18 INTENT OF WHAT WE'RE TRYING -- I THINK THE INTENT
19 OF WHAT THE BOARD IS TRYING TO DO IS GOOD,
20 HONORABLE, AND RIGHT ON TARGET. I THINK THAT WHAT
21 HAPPENS IS THAT EVERYBODY HERE DEALS WITH GOOD
22 ACTORS. AND I HAVEN'T ALWAYS DEALT WITH GOOD
23 ACTORS. I'VE DEALT WITH THE REALITY OF EVERY DAY

24 OUT THERE, AND I KNOW HOW THEY PLAY THE GAME.

25 SO IF THAT CAN BE INCLUDED, THAT

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1 WE -- THAT THE LEA CAN GO BACK TO THE GENERATOR AND
2 SEE WHAT ACCOMMODATIONS THEY'VE MADE, AND I'M
3 TALKING ABOUT THAT PROBLEM FACILITY, YOU KNOW, THAT
4 I THINK IT'S IMPORTANT.

5 MS. RICE: I'M ALSO ASSUMING THAT IF A
6 RECYCLING OPERATION, IN QUOTES, IS TAKING MIXED
7 WASTE, THAT THERE WOULD LIKELY BE HIGHER THAN
8 10-PERCENT RESIDUAL.

9 MEMBER JONES: WOULDN'T HAVE TO BE.

10 MS. RICE: COULD BE, VERY LIKELY.

11 MEMBER JONES: YEAH, BUT WHAT'S GOING TO
12 HAPPEN IS, YOU KNOW, IF YOU GET 3,000 TONS A DAY
13 IN, AND 2800 TONS OF IT COMES FROM WAL-MART OR
14 GROCERY OUTLET OR THOSE PLACES WHERE YOU PULL UP IN
15 A TRUCK AND TRAILER AND YOU GET A FORKLIFT, YOU
16 DROP IT ON THE TRUCK, IT GOES INTO THE GATE, IT
17 GETS COUNTED, GOES THROUGH THE FACILITY, IT GETS
18 COUNTED. IT DRIVES THROUGH THE FACILITY, IT GOES
19 TO THE BACKYARD, IT GETS UNLOADED INTO A TRAILER.

20 LET'S SAY THAT THAT 2800 TONS THAT
21 CAME IN THAT TOOK ABSOLUTELY NO PROCESSING, THAT
22 ALLOWS YOU AT THAT POINT UNDER THESE REGULATIONS TO
23 BRING IN 280 TONS OF GARBAGE. IS THAT A RECYCLING
24 FACILITY, OR IS THAT A MRF TRANSFER STATION?

I MEAN THAT'S THE REALITY OF HOW THE
135

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1 NUMBERS CAN WORK. SO WHAT I'M SAYING IS I DON'T
2 WANT -- I DON'T WANT TO HURT THE GOOD OPERATORS. I
3 DON'T WANT TO HURT ANY OPERATOR THAT MAKES A
4 MISTAKE. BUT I DON'T WANT TO ENDORSE SOME GUY THAT
5 CAN LOOK AT THESE RULES AND FIGURE OUT A WAY TO
6 OPERATE A BUSINESS TO GAIN AN ADVANTAGE OVER ALL OF
7 US IN THE ROOM. I MEAN OVER -- I DON'T CARE WHAT
8 YOU WANT TO CATEGORIZE YOURSELF AS. YOU ARE GOING
9 TO HAVE AN UNFAIR ADVANTAGE ON EVERYBODY, AND
10 THEY'RE NOT GOING TO BE LOOKED AT FROM THE HEALTH
11 AND SAFETY ISSUES. THAT'S ALL I'M SAYING.

12 SO IF THE LEA'S CAN GO BACK TO THE
13 SOURCE AND DETERMINE THAT THE SOURCE, IN FACT, IS
14 DELIVERING MUNICIPAL SOLID WASTE, THEN THEY NEED TO
15 MAKE A CALL ON THE FACILITY. AND I THINK THAT'S
16 ONLY SOMETHING TO THINK ABOUT.

17 MR. BLOCK: LET ME GO AHEAD AND JUMP IN
18 BECAUSE I THINK I NEED TO CLARIFY JUST BRIEFLY.
19 AND PERHAPS I'M BEING A LITTLE BIT TOO LITERAL, AS
20 YOU MENTIONED EARLIER THIS MORNING. BUT THE WAY
21 THE TWO-PART TEST IS SET UP, THE FACT THAT 2800
22 TONS, LET'S SAY, OF MATERIAL HAS GOT ZERO RESIDUAL
23 DOESN'T MEAN THAT THAT FACILITY CAN THEN TAKE IN X
24 AMOUNT OF TONNAGE OF MSW. THEY WOULDN'T BE ABLE TO

25

DO THAT BECAUSE THEY WOULDN'T MEET THE FIRST PART
136

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1 OF THE TEST.

2 IN OTHER WORDS, THE RESIDUAL IS STILL
3 MEASURING OFF OF EXACTLY -- THE IDEA IS THAT IT'S
4 MATERIAL THAT IS REMOVED FROM THE RESIDUAL OF
5 DECONTAMINATION OR WHATEVER SORT OF PROCESS WE'D BE
6 DEALING FROM ESSENTIALLY SOURCE SEPARATED MATERIAL.
7 AND YOU ARE GETTING BACK TO PROBABLY THE ONE
8 GENTLEMAN AT THE WORKSHOP THAT WAS TALKING ABOUT
9 INTENT.

10 MEMBER JONES: NO. NO. HE FALLS INTO THE
11 CATEGORY.

12 MR. BLOCK: AND WE VERY CLEARLY TOLD HIM
13 THAT HE DOESN'T MEET THE TWO-PART TEST BECAUSE HE
14 WAS TAKING MIXED WASTE. THE FACT THAT YOU HAVE X
15 AMOUNT OF MATERIAL WITH NO RESIDUAL DOESN'T ALLOW
16 THE TAKING OF X AMOUNT OF MSW.

17 MEMBER JONES: IT DOESN'T ALLOW IT, BUT
18 TELL ME HOW IT IN REALITY, IF THAT FACILITY SHOWS
19 YOU RECORDS THAT SAYS FOR THIS DAY I HAD 2800 TONS
20 OF MATERIAL THAT WAS RECYCLED AND 280 TONS OF
21 MATERIAL THAT WENT TO A LANDFILL, WERE THEY IN
22 VIOLATION BECAUSE WE DON'T KNOW. THAT'S WHAT I'M
23 SAYING IS WE DON'T KNOW HOW THE DELIVERIES COME IN.

24 WE ONLY KNOW WHAT THEY WRITE DOWN AND WHAT LEA'S
25 CAN GO INTO AND SEE. BECAUSE AN LEA HAS THE RIGHT
137

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1 TO GO IN AND CHECK THEIR RECORDS BECAUSE IT'S THE
2 RECORDS THAT ARE THE BASIS FOR THE EXEMPTION,
3 RIGHT, IF THE NUMBERS PROVE IT.

4 SO WHILE I AGREE WITH YOU, THAT THE
5 THING SAYS IT'S GOT TO BE SOURCE SEPARATED, THE
6 REALITY IS WHEN SOMEBODY IS LOOKING AT THE CAPACITY
7 OF THEIR SITE AND THEY'RE LOOKING AT THEIR
8 WASTESTREAM AND THEY'RE LOOKING AT WHAT THEY HAVE
9 TO DO TO PROCESS THE MATERIAL, THEY'RE ALSO LOOKING
10 AT WHAT THE AVAILABLE OTHER WASTESTREAMS ARE.

11 MR. BLOCK: LET ME ALSO GO AHEAD AND
12 CLARIFY THE OTHER QUESTION YOU ASKED. YOU HAD
13 ACTUALLY ASKED ABOUT GOING BACK TO THE SOURCE. AND
14 I GUESS WE HAVEN'T EVER ADDRESSED THAT, BUT I
15 SUPPOSE THERE'S NOTHING THAT WOULD PREVENT AN LEA
16 FROM CERTAINLY TRYING TO TRACK BACK. BUT THE -- IN
17 TERMS OF THE ABILITY OF AN LEA TO INSPECT AN
18 OPERATION TO SEE IF, IN FACT, THEY'RE MEETING THE
19 TWO-PART TEST, THEY COULD ALSO OBSERVE THE
20 OPERATIONS, NOT JUST LOOKING AT THE RECORDS.

21 SO IF THAT MATERIAL IS COMING IN THE
22 DOOR, CERTAINLY THE LEA CAN BE LOOKING TO SEE
23 HOW -- DOES THAT MATERIAL APPEAR TO BE SOURCE

24 SEPARATED OR NOT? IS IT A DUMPSTER THAT'S
25 BASICALLY GOT PUTRESCIBLES MIXED IN, IT LOOKS LIKE
 138

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1 SOMETHING THAT CAME OUT OF -- THAT'S JUST BEEN
2 PICKED UP AS PART OF THE REGULAR MUNICIPAL SOLID
3 WASTESTREAM FROM WHEREVER IT'S BEING PICKED UP OR
4 THE LIKE. THAT WAS ONE OF THE ISSUES THAT WE
5 LOOKED AT BACK IN 1995 WHEN STAFF WENT OUT AND
6 LOOKED AT THESE OPERATIONS. AND IN LOOKING AT THE
7 30 OR 40 OPERATIONS WAS SPECIFICALLY INSPECTING AND
8 LOOKING AT THE FRONT END OF THE FACILITY AS WELL TO
9 SEE IS IT POSSIBLE TO TELL WHETHER THE MATERIAL IS
10 SOURCE SEPARATED OR NOT.

11 MEMBER RELIS: I THINK WE HAVE TO CLARIFY
12 SOMETHING, THOUGH, HERE. WE PASSED A POLICY. WE
13 DID NOT -- THOSE HAVE NOT BEEN DEVELOPED INTO
14 REGULATIONS. SO YOU ARE REFERRING TO INFORMATION,
15 LET'S SAY, THE LEA WANTING TO GET THE INFORMATION
16 UNDER THE GUIDELINES THAT WE PASSED ON IN '85.

17 MS. RICE: THESE REGULATIONS BEFORE YOU
18 ARE SEEKING TO PLACE YOUR POLICY IN REGULATION.

19 MEMBER RELIS: SO RIGHT NOW THAT REQUEST
20 FOR INFORMATION AND HOW YOU GATHER IT AND HOW THEY
21 KEEP IT IS NOT A MATTER OF REGULATION, AND SO IT
22 HADN'T BEEN REQUIRED. SO I THINK WE HAVE TO REMIND
23 OURSELVES THAT WHILE THOSE ARE STATED, THEY WERE

24 NOT EXPRESSED AS REGULATION, AND I THINK THAT
MAY

25 BE IN PART WHY WE'RE HERE.

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1 MR. BLOCK: I WANTED TO MAKE CLEAR. I
2 WASN'T ATTEMPTING TO ARGUE ONE WAY OR THE OTHER
3 ABOUT THIS ISSUE. BUT I WANTED TO MAKE CLEAR THAT
4 THE SCOPE OF EXACTLY WHAT THE TWO-PART TEST DOES,
5 THAT LEA'S WOULD HAVE THE ABILITY TO VIEW THE
6 OPERATION AT THE FRONT OF THE, YOU KNOW, MATERIAL
7 COMING UP FRONT AS WELL TO MAKE THAT DETERMINATION
8 ON THE FIRST PART OF THE TEST.

9 MEMBER JONES: I FULLY APPRECIATE THE
10 TWO-PART TEST AND WHAT IT'S GOING TO TAKE. I JUST
11 KNOW THE REALITY OF, YOU KNOW, SOME OF THE STUFF.

12 AND THEN MY OTHER QUESTION IS WHEN WE
13 SAY MEASURED ON A MONTHLY BASIS, ARE WE LOOKING AT
14 A 21-DAY MONTH, A 22-DAY MONTH, OR A 30-DAY MONTH?
15 IF THERE ARE -- DAYS OF OPERATION, WHAT ARE WE
16 LOOKING AT HERE?

17 MS. RICE: I DON'T KNOW.

18 MR. BLOCK: I DON'T BELIEVE WE ACTUALLY
19 GOT TO THAT LEVEL. AT THE TIME BACK IN '95, I
20 THINK WE WERE JUST LOOKING AT DAILY, MONTHLY,
21 QUARTERLY, ANNUALLY SORT OF IN BROAD TERMS THAT
22 WAY. IF THERE IS AN IMPLICATION TO WHETHER WE SAY
23 MONTHLY BASED ON DAYS OPEN VERSUS JUST A STRAIGHT
24 30-DAY PERIOD, WE'D BE INTERESTED IN KNOWING THAT

25 ABOUT THAT, AND WE COULD WORK THAT INTO SOME OF
THE

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1 FINE-TUNING OF HOW THIS IS SET.

2 BUT AT THE TIME WE CERTAINLY DIDN'T
3 GET ANY INFORMATION THAT WORKING DAYS VERSUS
4 CALENDAR DAYS WOULD IMPACT WHAT WE'RE LOOKING AT.

5 MEMBER JONES: WELL, IF YOU ONLY OPERATE
6 MONDAY THROUGH FRIDAY, THEN IT GIVES YOU 11 -- 8 TO
7 11 DAYS THAT YOU CAN -- OR 8 TO 10 DAYS, I GUESS,
8 THAT YOU COULD DIVIDE THAT WASTESTREAM BY WHEN YOU
9 HAD NO INCOMING WASTE TO TAKE CARE OF THE
10 RESIDUAL. YOU KNOW WHAT I'M GETTING AT?

11 SO EVERY OTHER PERMIT IN THE STATE IS
12 A DAILY PERMIT, RIGHT? DO WE HAVE ANY MONTHLY
13 PERMITS?

14 MS. RICE: WELL, IN A NUMBER OF THEM
15 THEY'RE WRITTEN SO THAT THE DAILY IS AVERAGED OVER
16 A MONTH OR YEAR.

17 MEMBER JONES: I DON'T HAVE A PROBLEM. IF
18 IT'S EASIER FOR THE INDUSTRIES TO DEAL WITH THIS
19 THAT WAY, I JUST WANT TO KNOW IF THE MULTIPLIER IS
20 GOING TO BE BY THE NUMBER OF DAYS THAT THEY'RE OPEN
21 AND OPERATING OR THE NUMBER OF DAYS IN A CALENDAR
22 MONTH BECAUSE IT ADDS AT A MINIMUM OF FOUR DAYS.
23 IT COULD ADD EIGHT DAYS, AND THAT EIGHT DAYS
24 DIVIDING INTO A WASTESTREAM COULD MAKE A BIG

25 DIFFERENCE BETWEEN WHAT IS 10-PERCENT RESIDUAL
AND

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1 WHAT IS 15 OR 18.

2 MS. RICE: I GUESS I'M NOT QUITE
3 UNDERSTANDING, BUT I MUST BE MISSING SOMETHING.

10

4 PERCENT OF THE TOTAL INCOMING IS 10 PERCENT
5 REGARDLESS OF HOW MANY DAYS YOU DIVIDE IT BY.

6 CHAIRMAN FRAZEE: WHAT YOU ARE SAYING
IS

7 IF YOU HAVE FIVE DAYS OF CLEAN.

8 MEMBER JONES: RIGHT.

9 CHAIRMAN FRAZEE: AND THEN YOU HAVE TWO
10 DAYS OF HUNDRED PERCENT GARBAGE.

11 MEMBER JONES: GARBAGE, YEAH.

12 MS. RICE: I THINK THE IMPORTANT FOCUS
FOR

13 ME IS THE TWO-PART TEST, SOURCE SEPARATED 10
14 PERCENT. AND YOU'RE RIGHT. WE HAVE NOT DONE
15 ANYTHING TO DATE, AS PAUL REMINDED US, AND EVAN
WAS

16 POINTING UP WHAT WE HAVE NOT DONE BECAUSE THIS
HAS

17 NOT BEEN PUT IN REGULATION. WE HAVE NOT
PROVIDED

18 ANY GUIDANCE ON RECORDKEEPING, HOW TO KNOW

WHAT'S

19 INCOMING, HOW TO KNOW WHAT'S OUTGOING, WHAT TO
LOOK

20 FOR, ALL THOSE KINDS OF THINGS WE HAVE NOT DONE.

21 SO IT'S VERY HARD TO KNOW HOW WE'LL DO IT OR

22 WHETHER WE COULD EFFECTIVELY.

23 MEMBER JONES: BUT YOU'RE RIGHT. WHAT

24 COMES IN AND WHAT GOES OUT IS 10 PERCENT, SO

REALLY

25 IT'S JUST GOING TO BE THE PERCENTAGE. BUT I AM

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1 NERVOUS THAT -- I DON'T LIKE THE IDEA THAT THEY
2 COULD GET A HUNDRED PERCENT CLEAN MATERIAL FOR
3 THREE OR FOUR DAYS AND BE ABLE TO TAKE IN GARBAGE
4 FOR OTHER DAYS.

5 MS. RICE: A LOT OF YOUR REMARKS LEAD ME
6 TO THINK THAT IT'S GOING TO BE VERY IMPORTANT HOW
7 WE LOOK AT RECORDKEEPING FOR THE SOURCE SEPARATED
8 MATERIAL COMING IN BECAUSE I HEAR THE CONCERN
9 REPEATED THAT WHAT IF IT ISN'T? WHAT IF IT ISN'T?
10 WELL, WE'LL HAVE TO FIGURE OUT WAYS TO GET AT THAT
11 THROUGH THE RULEMAKING PROCESS AND THEN THE
12 GUIDANCE WE PROVIDE ON THE RULEMAKING PROCESS.

13 CHAIRMAN FRAZEE: ARE WE COMFORTABLE WITH
14 THIS, LEAVING THE ITEM STILL PARTIALLY OPEN?

15 MEMBER JONES: I DON'T HAVE A PROBLEM.
16 WHERE WE'RE AT IS FINE.

17 CHAIRMAN FRAZEE: I'M PREPARED TO GO WITH
18 THE TEST AS IT IS, THE 10 PERCENT, BUT IT'S UP
19 TO --

20 MEMBER JONES: I'M FINE WITH THAT.

21 CHAIRMAN FRAZEE: LEAVING IT OPEN?

22 MEMBER JONES: NO. I'M FINE WITH YOU --
23 I'LL FOLLOW YOUR 10 PERCENT AND THAT, BUT I DO WANT

24 THE ISSUE OF IF WE'RE NOT EVER GOING TO LOOK AT A
25 RESIDUAL CAP, THEN I WANT TO LOOK AT THOSE ISSUES
143

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1 THAT WE TALKED ABOUT ON THE SECOND PART OF THAT
2 TWO-PART TEST, IF AN LEA WANTS TO GO TO THE
3 GENERATOR TO SEE WHAT THE WASTESTREAM LOOKS LIKE,
4 YOU KNOW.

5 AND I ALSO WANT TO DEAL WITH THE
6 MONTHLY ISSUE IN REGARDS TO, YOU KNOW, THAT THEY
7 DON'T TAKE IN ALL CLEAN FOR SEVEN DAYS OF THE MONTH
8 AND THEN CAN TAKE IN A MIXED MUNICIPAL WASTESTREAM
9 AND THEN FORGET THE CAP.

10 MS. RICE: BASED ON YOUR DIRECTION TODAY,
11 THE NEXT DRAFT WILL REFLECT THIS ISSUE AS IT IS
12 CURRENTLY DRAFTED.

13 CHAIRMAN FRAZEE: WITH THE 10 PERCENT.

14 MS. RICE: THIS TWO-PART TEST AS IT
15 CURRENTLY EXISTS.

16 CHAIRMAN FRAZEE: BUT REALIZING THAT THERE
17 WILL BE A COMMENT PERIOD ON THESE REGULATIONS, AND
18 THAT COMMENT PERIOD COULD CAUSE THAT TO CHANGE.

19 MEMBER RELIS: YEAH. WE WOULD GET, IN
20 OTHER WORDS, IN THE NEXT MONTH OR WHENEVER IT'S
21 READY, WE'RE STILL GOING TO BE IN REGULATIONS, BUT
22 WE GO AHEAD WITH THE LANGUAGE AS IS.

23 MS. RICE: ABSOLUTELY.

24 CHAIRMAN FRAZEE: THE MESSAGE IS DON'T
25 LEAVE A VOID IN THAT AREA. GO AHEAD AND FILL IT,
 144

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1 BUT RECOGNIZING THAT IT MAY GET CHANGED.

2 LET'S MOVE ON TO -- THIS IS, OF
3 COURSE, CLOSELY TIED, BUT THE DEFINITION OF SOURCE
4 SEPARATED AND SEPARATED FOR REUSE. AND SOMEWHERE I
5 CAN'T FIND IT NOW, I SAW A PROPOSAL THAT MERGED
6 THOSE TWO; IS THAT CORRECT?

7 MS. REHBERG: YES. THE BOARD APPROVED
8 DEFINITIONS FOR SOURCE SEPARATED AND SEPARATED FOR
9 REUSE AT THEIR OCTOBER 1995 MONTHLY MEETING. THE
10 DISTINCTION BETWEEN THE TWO DEFINITIONS RELATES TO
11 THE LOCATION AT WHICH THE SEPARATION OCCURS.
12 SOURCE SEPARATED RECYCLABLES ARE SEPARATED OR KEPT
13 SEPARATE FROM THE SOLID WASTE AT THE POINT OF
14 GENERATION. RECYCLABLES SEPARATED FOR REUSE FIT
15 INTO A SLIGHTLY BROADER CATEGORY THAT RECOGNIZES
16 THAT RECYCLABLES MAY ALSO BE SEPARATED FROM WASTE
17 AT A TRANSFER PROCESSING FACILITY OR OTHER
18 NONGENERATOR LOCATIONS AND TRANSPORTED TO A
19 RECYCLING OPERATION.

20 SINCE THE TWO TERMS ARE ALWAYS USED
21 TOGETHER, THE TWO DEFINITIONS WERE COMBINED IN THE
22 PROPOSED REGULATIONS FOR THE PURPOSE OF GREATER
23 CLARITY AND SIMPLICITY USING ONE TERM "SEPARATED
24 FOR REUSE."

STAFF BELIEVES THAT THE BOARD'S
145

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1 INTENT HAS NOT CHANGED; HOWEVER, STAFF RECEIVED
2 INPUT FROM SOME MEMBERS OF THE RECYCLING INDUSTRY
3 THAT THEY WANTED THE TWO DEFINITIONS TO REMAIN
4 UNCHANGED.

5 STAFF CAN GO EITHER WAY ON THIS
ISSUE

6 AND DO NOT SEE ANY REGULATORY PURPOSE TO RETAIN
7 SEPARATE DEFINITIONS, BUT DO NOT OBJECT TO
8 RETAINING THEM. STAFF BRINGS THIS FORWARD AS AN
9 ISSUE FOR DISCUSSION AND DIRECTION FROM THE
10 COMMITTEE.

11 CHAIRMAN FRAZEE: OKAY. WE HEAR FROM
12 ANYONE WHO IS INTERESTED IN THE SUBJECT. YES, GO
13 AHEAD.

14 MS. DELMATIER: MR. CHAIRMAN AND MEMBERS
15 OF THE COMMITTEE, DENISE DELMATIER WITH THE
GUALCO

16 GROUP ON BEHALF OF NORCAL WASTE SYSTEMS.

17 AFTER THE DISCUSSION ON THE
18 10-PERCENT RULE, AND AS MR. SWEETSER TESTIFIED
19 BEFORE THE COMMITTEE, WE DO, IN FACT, SUPPORT THE
20 10-PERCENT RULE. WE HAD PREVIOUSLY ADVOCATED FOR

A

21 LOWER PERCENTAGE, BUT WE BELIEVE THAT IT'S A
22 REASONABLE COMPROMISE AND WOULD ENCOURAGE THE
23 COMMITTEE AND THE BOARD TO CONTINUE WITH THAT
LEVEL
24 AND THRESHOLD FOR ESTABLISHING THE FIRST PART OF
25 THE TWO-PART TEST.

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1 BUT AFTER THE DISCUSSION REGARDING
2 THE 10-PERCENT RULE AND THE DISCUSSION REGARDING
3 WHAT CONSTITUTES WHAT'S COMING IN THE DOOR, THEN IT
4 BECOMES QUITE APPARENT THAT THE SECOND PART OF THE
5 TWO-PART TEST BECOMES MORE CRITICAL AS FAR AS HOW
6 WE DEFINE AND HOW WE ENFORCE WHAT IS SOURCE
7 SEPARATED OR SEPARATED FOR REUSE.

8 HAVING BEEN, AND MOST OF YOU HAVE
9 HEARD ME TESTIFY TO THIS IN PRIOR SESSIONS, BUT
10 HAVING SAT AT THE TABLE DURING THE NEGOTIATIONS ON
11 AB 939 AND THE LANGUAGE SPECIFICALLY, I HAVE TO
12 RECOLLECT WHAT WAS THE ORIGINAL INTENT AS FAR AS
13 DEFINING WHAT IS A TRANSFER OR PROCESSING STATION
14 AND WHAT IS NOT.

15 AND THE SECTION OF PUBLIC RESOURCES
16 CODE THAT IS MENTIONED, OF COURSE, IN THE STAFF
17 ANALYSIS AND WHICH WE CONCUR WITH STAFF ANALYSIS,
18 THAT THIS IS THE GOVERNING STATUTE WHICH ALL OF THE
19 DISCUSSION CENTERS AROUND. WE HAVE TO REMIND
20 MEMBERS THAT WE NEED TO LOOK AT THE LANGUAGE WITH A
21 PLAIN READING OF THAT LANGUAGE AND THEN OPERATE
22 WITHIN THE CONSTRAINTS OF THAT LANGUAGE WITHOUT
23 FURTHER LEGISLATION TO FURTHER REFINE WHAT THAT
24 MEANS OR WHAT IT DOESN'T MEAN.

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1 PASSED OUT MY ONLY COPY. I'LL LOOK UP AT THE
2 SCREEN HERE. THE LANGUAGE THAT I'M REFERRING TO IS
3 THE LANGUAGE THAT DEFINES WHAT IS NOT A TRANSFER OR
4 PROCESSING STATION. SO WHAT IS EXCLUDED UNDER THE
5 BOARD'S AUTHORITY ARE THOSE FACILITIES -- AND I'LL
6 EMPHASIZE THE FIRST -- SECOND PART OF THAT
7 PARAGRAPH OR THAT CLAUSE -- WHICH HAVE ALREADY BEEN
8 SEPARATED FOR REUSE AND ARE NOT INTENDED FOR
9 DISPOSAL.

10 WE WOULD CONCUR WITH THE RECYCLING
11 INDUSTRY, THAT IT WAS THE INTENT IN 939 TO EXCLUDE
12 FACILITIES WHO OPERATE UNDER THE CONSTRAINTS OF
13 SEPARATED FOR REUSE THOSE MATERIALS THAT ARE READY
14 TO ENTER THE ECONOMIC MAINSTREAM FOR PURPOSES OF
15 RECYCLING.

16 AND MOST OF THE OPERATIONS OF
17 JEFFERSON SMURFIT AND WEYERHAEUSER AND THE OTHERS
18 FALL WITHIN THAT CATEGORY AND WOULD NOT BE UNDER
19 THE REGULATORY JURISDICTION OF THE BOARD.

20 BUT IT'S IMPORTANT FOR PURPOSES OF
21 ENFORCEMENT, AND ECHOING MR. JONES' CONCERNS, THAT
22 THAT LANGUAGE BE REFERRED TO; AND, THEREFORE,
THERE

23 ARE -- IT'S IMPORTANT THAT WE HAVE TWO SEPARATE
24 DEFINITIONS, ONE FOR SEPARATED FOR REUSE AND ONE
25 FOR SOURCE SEPARATED. THEY ARE EXTREMELY
DIFFERENT

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1 DEFINITIONS WITH DIFFERENT PURPOSES IN MIND.

2 IF YOU LOOK AT THE COMPLEMENTARY
3 DEFINITION OF RECYCLING, YOU NOTE THAT RECYCLING
4 INCLUDES THE PROCESSING AND RECONSTITUTING OF
5 MATERIALS AND RETURNING THEM TO THE ECONOMIC
6 MAINSTREAM IN THE FORM OF RAW MATERIAL FOR NEW,
7 REUSED, OR RECONSTITUTED PRODUCTS. THOSE TWO
8 SECTIONS THAT I'VE JUST OUTLINED TO YOU ARE, IN
9 FACT, INTENDED TO BE COMPLEMENTARY.

10 A FACILITY THAT'S EXCLUDED FROM THE
11 BOARD'S JURISDICTION, WHO OPERATES UNDER THE
12 DEFINITION OF SEPARATED FOR REUSE, IS A FACILITY
13 WHO HAS PROCESSED -- THOSE MATERIALS ARE PROCESSED
14 TO THE POINT THAT THEY ARE READY FOR RETURN INTO
15 THE ECONOMIC MAINSTREAM.

16 AND SO WHAT WE WOULD ENCOURAGE THE
17 BOARD TO DO IN DEFINING SEPARATED FOR REUSE IS TO
18 ADD THE LANGUAGE AT THE TAIL END THERE ON THE
19 CURRENT STAFF RECOMMENDATION ON SEPARATED FOR REUSE
20 AND ADD THOSE MATERIALS THAT ARE RETURNING TO THE
21 ECONOMIC MAINSTREAM IN THE FORM OF RAW MATERIAL,
22 ETC.

23 THAT WAS THE INTENTION ALL ALONG AS

24 FAR AS DEFINING THOSE FACILITIES WHO ARE OUTSIDE
25 THE BOARD'S JURISDICTION. AND WE WOULD CONCUR AND
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1 AGREE WITH THE ADVOCATES FROM WEYERHAEUSER AND
2 JEFFERSON SMURFIT THAT THOSE ARE, IN ESSENCE, THE
3 OPERATIONS AND DESCRIBE THE OPERATIONS THAT THEY
4 HAVE THROUGHOUT THE STATE AND WOULD BE EXCLUDED
5 FROM THE BOARD'S JURISDICTION. HOWEVER, IF YOU USE
6 THE DEFINITION OF SOURCE SEPARATED, SOURCE
7 SEPARATED MERELY ENTERTAINS THE NOTION THAT YOU
8 HAVE MATERIALS THAT REQUIRE FURTHER PROCESSING.
9 THEY CAN HAVE ANY RANGE OF COMMINGLING OF
10 CONTAMINATION DEPENDING UPON THE OPERATION.

11 NOW, WE WOULD ARGUE AND AGREE WITH
12 THE ADVOCATES OF JEFFERSON SMURFIT THAT, IN FACT,
13 MOST OF THEIR OPERATIONS FALL UNDER THE CATEGORY OF
14 SEPARATION FOR REUSE, AND VERY RARELY WOULD THEY
15 HAVE A HIGH-END SOURCE SEPARATION DEFINITION. IN
16 OTHER WORDS, THE KINDS OF OPERATIONS THAT MR. JONES
17 WAS ALLUDING TO THAT HAVE A LARGE LEVEL OF
18 CONTAMINATION THAT MAY OR MAY NOT, IN FACT, EXCEED
19 THAT 10-PERCENT THRESHOLD THAT WE'VE ALL AGREED TO,
20 BUT THEY HAVE MATERIAL THAT'S BEEN SOURCE SEPARATED
21 BY THE GENERATOR OR BY A PROCESSOR.

22 SO WE HAVE TWO DEFINITIONS, ONE
23 SEPARATION FOR REUSE, THOSE MATERIALS THAT ARE
24 READY TO ENTER THE ECONOMIC MAINSTREAM. THEY'VE

25

BEEN PROCESSED TO THE POINT WHERE FURTHER
150

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1 PROCESSING IS PROBABLY NOT REQUIRED, AND THERE IS A
2 DE MINIMUS RESIDUAL, PROBABLY AROUND THE 1- TO
3 2-PERCENT THRESHOLD. THOSE WERE NEVER ENTERTAINED
4 BY THE NEGOTIATORS OF AB 939 TO BE INCLUDED WITHIN
5 THE BOARD'S JURISDICTION. HOWEVER, SOURCE
6 SEPARATED MATERIALS THAT HAVE A RANGE OF
7 CONTAMINATION THAT COULD BE IN EXCESS OF 10 PERCENT
8 OR LESS THAN 10 PERCENT, THOSE FACILITIES WE'VE
9 DECIDED IN PREVIOUS DISCUSSIONS AND NEGOTIATIONS
10 OUGHT TO BE WITHIN THE JURISDICTION OF THE BOARD,
11 DEPENDING UPON WHETHER OR NOT THEY FALL WITHIN THAT
12 10-PERCENT THRESHOLD.

13 NOW I WANT TO RETURN TO THE FIRST
14 PART OF THAT CLAUSE. A FACILITY WHOSE PRINCIPAL
15 FUNCTION IS TO RECEIVE, STORE, CONVERT, OR
16 OTHERWISE PROCESS WASTE WHICH HAS ALREADY BEEN
17 SEPARATED, ETC. THAT'S -- THE TERM "PRINCIPAL
18 FUNCTION" IS WHERE WE'VE DECIDED TO DRAW THE LINE
19 BECAUSE WHAT WE'VE DECIDED IS PREVIOUSLY, WHICH WE
20 AGREE WITH THE ADVOCATES FROM THE RECYCLING
21 INDUSTRY, THE ADVOCATES FROM THE ENVIRONMENTAL
22 COMMUNITY, AND I BELIEVE THE ADVOCATES FROM THE
23 WASTE RECYCLING INDUSTRY, THAT WE HAVE THE TWO

24 SEPARATE DISTINCTIONS, THE TWO SEPARATE DEFINI-
25 TIONS.

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1 AND THEN WHERE WE DRAW THE LINE IS
2 HOW WE DEFINE PRINCIPAL FUNCTION. SO THOSE
3 FACILITIES THAT ARE WITHIN THE 10 PERCENT, THAT'S
4 THE FIRST PART OF THE TWO-PART TEST, PRINCIPAL
5 FUNCTION, THOSE FACILITIES WHO ARE WITHIN THE 10
6 PERCENT ARE OUTSIDE THE BOARD'S JURISDICTION.
7 WE'VE DECIDED, THEN, THAT THOSE FACILITIES WHO
8 EXCEED 10 PERCENT ARE OUTSIDE THE -- OR WITHIN THE
9 BOARD'S JURISDICTION BECAUSE THAT'S NOT THEIR
10 PRINCIPAL FUNCTION.

11 SO, IN ESSENCE, WHAT WE'VE DECIDED
12 HERE IS WHAT CONSTITUTES PRINCIPAL FUNCTION AS FAR
13 AS THE 10-PERCENT RULE, AND THEN WE'VE DECIDED
14 WHAT
15 CONSTITUTES SOURCE SEPARATED AND SEPARATED FOR
16 REUSE. BUT I WANT TO BE REAL CLEAR AS FAR AS THE
17 TWO DISTINCT DEFINITIONS BECAUSE THOSE DEFINITIONS
18 HAVE A GREAT DEAL OF IMPLICATION FOR OTHER ISSUES
19 BESIDES WHAT WE'RE DEALING WITH TODAY. ONCE WE
20 DECIDE ON THOSE DEFINITIONS, WE DON'T WANT TO
21 ADVERSELY IMPACT THE DISCUSSIONS ON A WHOLE RANGE
22 OF ISSUES, THE PURE -- I MEAN IT RUNS THE GAMUT AS
23 FAR AS WHAT THE BOARD ADDRESSES IN OTHER

REGULATORY

23 PACKAGES.

24 AND AS FAR AS ENFORCEMENT ISSUES

THAT

25 MR. JONES WAS ALLUDING TO EARLIER, AND THE

FACILITY

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1 THAT THE COMMITTEE DEALT WITH EARLIER IN SAN
2 FRANCISCO, THOSE DEFINITIONS ARE CRITICAL, THAT
3 THEY REMAIN INTACT AS FAR AS THE TWO DISTINCT
4 DEFINITIONS AS I'VE DESCRIBED.

5 I THINK THAT PRETTY MUCH COVERS IT,
6 ALTHOUGH I NOTE THAT AS FAR AS THE DEFINITION OF
7 SOURCE SEPARATION, WE WOULD HAVE ONE FURTHER
8 RECOMMENDATION. AND THAT IS THAT WHETHER OR NOT
9 THE OWNER OF THE MATERIAL SEPARATES THE RECYCLABLE
10 MATERIALS OR WHETHER OR NOT A PROCESSOR OR A
11 COLLECTOR SEPARATES THE RECYCLED MATERIALS, IT'S
12 IMMATERIAL ESSENTIALLY. IT DOESN'T MATTER IF THE
13 OWNER DOES IT. YOU MAY HAVE A FACILITY THAT IS
14 FURTHER DOWN THE LINE IN THE PROCESS IN THE
15 RECYCLING STREAM.

16 AND SO THE FACT THAT THE OWNER HAS
17 SEPARATED THE MATERIALS, THAT'S GREAT, BUT A
18 PROCESSOR OR A COLLECTOR MAY SEPARATE THOSE
19 MATERIALS AND TAKE THOSE MATERIALS TO A FACILITY.
20 SO WE WOULD ENCOURAGE THE DELETION OF OWNER.

21 MEMBER JONES: I HAVE A QUESTION JUST ON
22 THAT ISSUE. IF A -- IF THE HAULER GOT THE SOURCE
23 SEPARATED MATERIAL FROM A HOUSEHOLD, DOESN'T HE

24 TAKE OWNERSHIP OF THAT AT THAT POINT?

25 MS. DELMATIER: CERTAINLY UNDER OTHER
153

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1 DEFINITIONS IN THE STATUTE THAT DEFINE WHAT IS A
2 RECYCLING LOCATION. AND UNDER OTHER DEFINITIONS OF
3 RECYCLING LOCATION, IT DEFINES THAT ONCE THE
4 TRANSFER FROM THE GENERATOR TO THE RECYCLING
5 LOCATION, THE COLLECTOR ASSUMES OWNERSHIP.

6 MEMBER JONES: SO IF -- BY THEIR OWNER
7 COULD MEAN THREE OR FOUR DIFFERENT OWNERS IN THE
8 COURSE OF THAT WASTESTREAM, COULDN'T IT?

9 MS. DELMATIER: IT COULD IN THAT INSTANCE
10 WHEN IT'S A RESIDENCE.

11 MEMBER JONES: WHEN IT'S NOT A RESIDENCE.

12 MS. DELMATIER: WHEN IT'S NOT A RESI-
13 DENCE, IT COULD BE ANY VARIETY. THAT LANGUAGE, THE
14 RECYCLING LOCATION DEFINITION THAT I JUST
15 MENTIONED, WAS SPECIFIC TO CURBSIDE.

16 MEMBER JONES: YOU'RE RIGHT.

17 MEMBER RELIS: I'D LIKE TO EXPLORE
18 SOMETHING. IF YOU WERE TO -- LOOKING AT THE
19 DEFINITION UNDER SOURCE SEPARATED, ASSUMING WE WERE
20 ABLE TO COME UP WITH SOME FURTHER WORK ON
21 PUTRESCIBLES OR WHAT IS NOT, LET'S JUST CALL IT FOR
22 THE MOMENT WHAT IS NOT SOURCE SEPARATED, COULD YOU
23 IMAGINE -- I MEAN COULD SOMEONE LIKE NORCAL OR SOME
24 OF THE OTHER OPERATORS HERE IMAGINE A DEFINITION

25 GOING ON ONE OF THEIR CONTAINERS, YOU KNOW, THAT IS
 154

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1 HEADING IN THE SOURCE SEPARATED ROUTE, THAT IS, THE
2 NONSOLID WASTE, IS THAT DESCRIBABLE IN A LABEL THAT
3 WOULD GO ON A CONTAINER?

4 MS. DELMATIER: SURE. IT'S MERELY A PART
5 OF PUBLIC EDUCATION AS FAR AS CERTAINLY WITHIN ANY
6 COLLECTION PROGRAM, THERE ARE THOSE MATERIALS THAT
7 ARE ENCOURAGED AND DISCOURAGED. FOR EXAMPLE, IN A
8 BUY-BACK OPERATION, YOU TAKE ONLY THE DOC
9 SANCTIONED COMMODITIES THAT ARE PART OF THE CRV
10 PROGRAM. THERE ARE MANY CONTAINERS THAT ARE NOT
11 PART OF THE CRV PROGRAM, AND THOSE ITEMS ARE
12 DISCOURAGED IN A RECYCLING OPERATION.

13 CERTAINLY IN A C&D OPERATION LIKE WE
14 SAW EARLIER TODAY, THERE SHOULD BE ITEMS THAT ARE
15 DISCOURAGED AND NOT ENCOURAGED, AND IT'S MERELY A
16 MATTER OF PUBLIC EDUCATION. AND I KNOW FROM
17 NORCAL'S FACILITIES THAT KIND OF PUBLIC EDUCATION
18 IS CERTAINLY ONGOING ON WHAT IS ENCOURAGED AND WHAT
19 IS DISCOURAGED.

20 MEMBER RELIS: THINKING ABOUT SOMETHING,
21 HASN'T QUITE FULLY HATCHED, SO WE'LL SEE.

22 MS. DELMATIER: LARRY, JUST FOR PURPOSES
23 OF DISCUSSION, HERE'S AN EXAMPLE OF A PUBLIC
24 EDUCATION PROGRAM THAT DESCRIBES WHAT'S ENCOURAGED

155

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1 MEMBER RELIS: WHAT I'M THINKING ABOUT,
2 THERE ARE BASICALLY THREE STEPS WHERE THE THING CAN
3 BREAK DOWN. ONE IS WHETHER PUTRESCIBLES, LET'S
4 JUST SAY, GOES INTO THE WRONG CONTAINER. THAT'S A
5 PUBLIC EDUCATION ISSUE. SECONDLY, THE PARTY WHO
6 TAKES THAT CONTAINER AND THEIR ROLE IN. SO THERE'S
7 A GENERATOR AND THEN THERE'S THE HAULER OR THE --
8 AND THEN THERE'S THE PARTY THAT RECEIVES.

9 THOSE ARE THE THREE, IT SEEMS TO ME,
10 THE THREE MOST CRITICAL STEPS WE'RE CONCERNED
11 WITH. IF THAT PART WERE UNDERSTOOD, AND LET'S JUST
12 SAY IT WAS SOME ENFORCEMENT ON, THEN PROBABLY THE
13 REMAINDER WOULDN'T BE OF CONCERN.

14 MS. DELMATIER: WELL, THERE ARE ENFORCE-
15 MENT ISSUES AS FAR AS WHAT THE COLLECTOR OR THE
16 PROCESSOR CAN OR CANNOT REQUIRE OF THE GENERATOR
17 AND CERTAINLY STATUTES THAT PROVIDE FOR EXCLUSIONS
18 OF MATERIALS. AND WE'RE CERTAINLY AWARE OF THOSE,
19 MEDICAL WASTE, HAZARDOUS WASTE, ETC., ETC. SO
20 THOSE KINDS OF PROGRAMS AND LOADCHECKING PROGRAMS
21 FOR THOSE MATERIALS LEND ITSELF WELL TO EXCLUSION
22 OF MATERIALS AND DISCOURAGEMENT OF MATERIALS.
23 HOWEVER, AS FAR AS ENFORCEMENT IS CONCERNED, UNLESS

24 IT'S IN THE REGULATION, THEN THERE WOULD BE NO
25 ENFORCEMENT.

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1 MEMBER RELIS: CORRECT. OKAY.

2 MR. SWEETSER: ACTUALLY IF I MAY ADD TO
3 THAT. LARRY SWEETSER WITH NORCAL AGAIN. IT'S NOT
4 ONLY A THEORY. IT'S A FACT. WE DO THIS ALL THE
5 TIME. THE HANDOUT I GAVE DENISE IS WE DO A LOT OF
6 EDUCATION. SAN FRANCISCO IS ONE OF OUR HALLMARK
7 COMPANIES IN THAT REGARD. WE TRAIN OUR COLLECTORS
8 TO WATCH OUT FOR HAZARDOUS WASTE, MEDICAL WASTE,
9 AND GARBAGE THAT'S IN THE RECYCLING LOADS.

10 WE DO EDUCATION TO THE CUSTOMERS. WE
11 SEND OUT NOTICES IN THEIR BILLS. WE DO THINGS --
12 WE DO BILLBOARDS ON BUSES. WE DO A LOT OF THOSE
13 ACTIVITIES. WE HAVE STICKERS THAT THEY CAN CARRY
14 IN THEIR POCKETS. WE HAVE THINGS STENCILLED ON OUR
15 CONTAINERS.

16 IF A COMPANY REALLY WANTS TO REDUCE
17 THE AMOUNT OF RESIDUAL, THEY CAN DO IT. OUR SAN
18 FRANCISCO CURBSIDING LINE HAS PROBABLY LESS THAN
19 ONE-PERCENT RESIDUAL. AND WE HAVE ONE OF THE
20 BIGGEST PARTICIPATIONS IN A CURBSIDE PROGRAM IN THE
21 STATE. SO YOU CAN DO IT. IF THEY DON'T WANT TO DO
22 IT, THEN YOU ARE GOING TO HAVE A PROBLEM.

23 I THINK THAT'S WHERE YOU'RE SEEING

24 THESE SO-CALLED RECYCLING CENTERS AND CURBSIDE
25 PROCESSORS COMING IN AT THE 10-PERCENT LEVELS
 157

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1 BECAUSE THEY'RE NOT TAKING THE EFFORT TO REFUSE
2 THAT MATERIAL AT THE CURB. HOW YOU ARE GOING TO
3 ENFORCE THAT, I'M NOT SURE, BUT THAT'S WHERE A
LOT
4 OF THE CRUX OF THE PROBLEM IS IS THAT PEOPLE
DON'T
5 WANT TO TAKE THAT MATERIAL OUT.

6 CHAIRMAN FRAZEE: THAT DEALS WITH
CURBSIDE
7 RESIDENTIAL PROGRAM, BUT WHAT ABOUT THE AREA OF
8 CONTAINERS WHERE A NUMBER OF GENERATORS HAVE
ACCESS
9 TO THAT CONTAINER AND DUMP WHATEVER?

10 MR. SWEETSER: I HAVE DEALT WITH THAT
11 QUESTION IN THE HAZARDOUS WASTE ARENA. I DON'T
SEE
12 ANY DIFFERENCE. WE'VE ALWAYS HELD THAT
GENERATOR

13 ACCOUNTABLE. IN SOME COMMUNITIES WE OFFER
LOCKED
14 CONTAINERS THAT THEY CAN USE. IF SOMEBODY
THROWS

15 SOMETHING THAT SHOULDN'T BE IN THAT CONTAINER,

IF

16 THEY WANT TO BLAME SOMEONE ELSE, FINE, BUT WE'RE

17 GOING TO HOLD THEM ACCOUNTABLE, EVEN TO

ADDITIONAL

18 SURCHARGES ON THAT MATERIAL OR OTHER MEASURES.

19 IT'S ALL A QUESTION OF HOW STRINGENT WE'RE GOING

TO

20 GO AFTER THAT IN TRYING TO KEEP OUR GARBAGE AND

OUR

21 RECYCLABLES AS CLEAN AS POSSIBLE.

22 STEVE'S BEEN ON THE RECEIVING END

OF

23 SOME OF THOSE PROGRAMS. WE'RE SETTING THEM UP

ON

24 HOW MUCH EFFORT WE PUT IN TO TRYING TO KEEP

THOSE

25 PROHIBITED TYPES OF WASTE OUT OF THE

WASTESTREAM.

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1 MEMBER JONES: I THINK WHAT YOU WERE
2 TALKING ABOUT WAS LIKE THE SOURCE SEPARATED
3 MATERIAL WHERE, YOU KNOW, ALL THE TIME THERE'S
4 DELIVERY OF BINS AND A SIGN IS PUT UP THAT SAYS
5 "PAPER PRODUCTS ONLY."

6 AND WHAT I HAVE ALWAYS DONE IS IF THE
7 GENERATOR -- IF I'M GOING TO TAKE THAT MATERIAL IN
8 AT A LOWER PRICE OR WHATEVER, I'M DOING THAT
9 BECAUSE I KNOW IT'S GOING TO BE A SEPARATED
10 MATERIAL, AND I'M NOT GOING TO HAVE TO SPEND THE
11 MONEY I WOULD NORMALLY. SO THE WAY I WOULD DO IT
12 IS THAT IT'S GOING TO BE CLEAN TO THIS LEVEL, OR
13 YOU ARE GOING TO PAY FOR IT AS GARBAGE.

14 AND THAT ONLY USUALLY TAKES ONE TIME
15 TO MAKE THEM UNDERSTAND THAT THEY WANT TO KEEP IT
16 CLEAN. AND I THINK THAT THIS IS -- THAT'S PART OF
17 THE PROCESS, AND THAT CAN BE DONE. AND THAT'S --
18 THAT'S WHERE THE RECYCLING FACILITY THAT'S
19 ACCEPTING THAT WASTE, OKAY, FROM WHOEVER OR IT'S
20 ACCEPTING THE, QUOTE, UNQUOTE, YOU KNOW, SOURCE
21 SEPARATED LOAD, AND THEY SEE THAT TYPE OF MATERIAL,
22 THEN THEY NEED TO, IF THEY WANT TO, YOU KNOW, TELL
23 THE GUY THAT'S MAKING THE DELIVERY, "THE STUFF IS

24 TOO DIRTY FOR US TO TAKE."

25 IF THEY DON'T WANT TO, OR IF IT'S

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1 THEIR BOXES, IF THEY'RE DOING IT TO GET AROUND
2 HAVING TO DO IT AS A MATERIALS RECOVERY FACILITY,
3 THEN IF THE LEA'S KEEP SEEING ALL THIS STUFF,
4 PUTRESCIBLE OR NOT, YOU KNOW, I MEAN GARBAGE IS --
5 AND THEY GO OUT AND THEY GO TO THE GENERATOR, AND
6 THERE HASN'T BEEN ANY TYPE OF EFFORT MADE TO
7 SEPARATE MATERIALS ONE MATERIAL FROM ANOTHER
8 MATERIAL, IT'S PRETTY OBVIOUS THAT'S A MUNICIPAL
9 SOLID WASTESTREAM. THAT'S GARBAGE COMING OUT OF
10 THAT FACILITY.

11 AND THAT'S WHAT HAPPENS, AND THAT'S
12 WHAT, YOU KNOW, HAS GOT ME SO UPSIDE DOWN ON THE
13 THING.

14 MS. DELMATIER: MR. RELIS, IN FURTHER
15 RESPONSE TO THAT QUESTION, THE ENFORCEMENT
16 CHALLENGE IS, WITH THE REGULATIONS AS PROPOSED IN
17 DRAFT FORM, IS THAT THE MEASUREMENT IS AT THE BACK
18 END.

19 MEMBER RELIS: THAT'S RIGHT.

20 MS. DELMATIER: SO WE'RE NOT MEASURING
21 ANYTHING COMING IN THE FRONT END. AND SO THAT'S
22 WHERE, AS MR. SWEETSER MENTIONED, IT'S ABSOLUTELY
23 CRITICAL TO HAVE THAT, AND AS MS. RICE MENTIONS,

24 ABSOLUTELY CRITICAL TO HAVE THAT ENFORCEMENT
25 AUTHORITY FOR LEA'S TO GO LOOK AT RECORDS IN THE
 160

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1 FRONT END TO CONFIRM, IN FACT, THAT WHAT IS SAID AT
2 THE BACK END IS TRUE AND CORRECT AND NOT A
3 MISREPRESENTATION.

4 MEMBER RELIS: WOULD YOU EXPLAIN AGAIN
5 ENFORCEMENT RECORDS AT THE FRONT END? WHAT WOULD
6 THAT CONSTITUTE?

7 MS. DELMATIER: ASKING FOR NUMBERS AND
8 VERIFICATION OF THE MATERIALS COMING IN THE DOOR AS
9 EITHER SOURCE SEPARATED MATERIAL --

10 MEMBER RELIS: YOU MEAN THE FRONT END AT
11 THE DOOR. OKAY. I WAS JUST TRYING TO FIGURE OUT
12 WHERE -- HOW FAR AT THE FRONT DOOR OF THE RECYCLING
13 FACILITY.

14 MS. DELMATIER: CORRECT. SO AT THE FRONT
15 END OF THE RECYCLING FACILITY, SINCE WE DON'T HAVE
16 IN THE DRAFT REGULATION A MEASUREMENT AND THE
17 MEASUREMENT IS AT THE BACK END, WE HAVE TO VERIFY
18 THAT WHAT IS BEING REPRESENTED AT THE BACK END IS
19 TRUE AND CORRECT, THAT IT IS, IN FACT, EITHER
20 SOURCE SEPARATED MATERIAL OR SEPARATED FOR REUSE
21 MATERIAL AND IS NOT MSW.

22 MEMBER JONES: REALLY, THAT WAS WHY I
23 THOUGHT THE 99-TON CAP COULD TAKE AWAY A LOT OF
24 THESE ISSUES.

MS. DELMATIER: IT WOULD. IT CERTAINLY
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1 WOULD, BUT MINUS THAT, WITHOUT THAT, THEN THESE
2 DEFINITIONS BECOME CRITICAL.

3 CHAIRMAN FRAZEE: OKAY. NOW, IS THERE
4 ANYONE ELSE WHO WISHES TO BE HEARD?

5 MR. BEST: THANK YOU, MR. CHAIRMAN. RICK
6 BEST WITH CALIFORNIANS AGAINST WASTE. BEFORE I
7 START, I DO WANT TO COMPLIMENT THE EFFORT OF THE
8 WASTE PREVENTION. I NOTICE YOU DON'T HAVE THE
9 RECORDER TAPE ANYMORE FOR THE RECORD, SO I DON'T
10 KNOW IF YOU GUYS COUNT THAT AS ONE OF YOUR WASTE
11 PREVENTION EFFORTS. I JUST NOTICED THAT. I WANTED
12 TO APPLAUD THE BOARD FOR THAT EFFORT.

13 SPEAKING TO THIS ISSUE OF SOURCE
14 SEPARATED AND SEPARATED FOR REUSE, I CONCUR WITH
15 THE PREVIOUS SPEAKER, THAT WE DO NEED TWO SEPARATE
16 DEFINITIONS. I WOULDN'T CONCUR ON THE DEFINITIONS.
17 I THINK THE TWO DEFINITIONS THAT WERE ADOPTED BY
18 THE BOARD IN THEIR 1995 POLICY WERE APPROPRIATE,
19 AND I THINK IT'S IMPORTANT TO UNDERSTAND THE
20 DIFFERENCE BETWEEN THE TWO.

21 THE FIRST DEFINITION, SOURCE
22 SEPARATED, WAS TAKING IN THE IDEA THAT THESE ARE
23 MATERIALS THAT HAVE BEEN SEPARATED AT THIS POINT OF
24 GENERATION. THIS IDEA OF SEPARATED FOR USE IS A

25 BROADER DEFINITION. THOSE ARE THOSE MATERIALS THAT
 162

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1 ARE SEPARATED AT THIS POINT OF GENERATION, BUT THEY
2 COULD ALSO INCLUDE MATERIALS THAT ARE SEPARATED
3 LATER ON DOWN THE LINE AT A MATERIAL RECOVERY
4 FACILITY, A FACILITY THAT PROCESSES SOLID WASTE,
5 AND THUS REMOVES RECYCLABLE MATERIALS, AND, THUS,
6 THOSE MATERIALS ARE NOW SEPARATED FOR USE.

7 SO THE TWO DEFINITIONS ARE IMPORTANT.
8 SEPARATED FOR USE INCLUDES -- IS THE BROADER
9 DEFINITION THAT INCLUDES BOTH THE SOURCE SEPARATED
10 AND THOSE THAT ARE SEPARATED DOWN THE LINE.

11 I THINK FOR THAT REASON IT'S
12 IMPORTANT TO HAVE TWO DEFINITIONS. I'VE KIND OF
13 COME UP WITH A WAY OF ADDRESSING THAT, AND I'D BE
14 HAPPY TO PASS THAT OUT. BUT BASICALLY WHAT I WOULD
15 PROPOSE IS TO HAVE THOSE TWO DEFINITIONS IN THE
16 REGULATIONS, AND THEN JUST AT THE VERY END OF THE
17 SEPARATED FOR REUSE DEFINITION INCLUDE A SIMPLE
18 SENTENCE THAT SAYS SEPARATED FOR REUSE INCLUDES
19 MATERIALS THAT HAVE BEEN SOURCE SEPARATED. AND
20 THAT MAKES IT CLEAR THAT THE BOARD CAN USE THE
21 SOURCE SEPARATED FOR REUSE TERM THROUGHOUT ITS
22 REGULATIONS, BUT IT'S UNDERSTOOD THAT SEPARATED
FOR

23 REUSE INCLUDES THOSE MATERIALS THAT HAVE BEEN
24 SOURCE SEPARATED. IT'S ON THE BACK PAGE, ITEM 30.

25 MEMBER RELIS: RICK, YOU USE THE WORD

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1 "INCLUDES." YOU WOULDN'T SAY ARE MATERIALS THAT
2 HAVE BEEN SOURCE SEPARATED BECAUSE IF YOU USE THE
3 WORD "INCLUDES," WHAT ELSE IS THERE?

4 MR. BEST: WELL, THERE ARE THOSE MATERIALS
5 THAT HAVEN'T BEEN SOURCE SEPARATED, BUT ARE
6 SEPARATED DOWN THE LINE AT A SOLID WASTE FACILITY
7 FOR THE PURPOSES OF REUSE.

8 MEMBER JONES: AT A SOLID WASTE FACILITY
9 OR AT A RECYCLING CENTER?

10 MR. BEST: I'M TALKING ABOUT THOSE
11 MATERIALS THAT ARE SEPARATED AT A SOLID WASTE
12 FACILITY, BUT ONCE BEING SEPARATED, THEN THEY GO --
13 NOW THEY ARE NO LONGER SOLID -- THEY'RE NOW
14 RECYCLABLE MATERIALS THAT HAVE BEEN SEPARATED FOR
15 REUSE.

16 MEMBER JONES: DOESN'T THAT -- DOESN'T
17 THAT -- DOESN'T THE FIRST -- I MEAN THE DEFINITION
18 TAKE THAT INTO ACCOUNT? I MEAN HERE IT SAYS READY
19 TO ENTER -- I MEAN, YOU KNOW, READY TO ENTER THE
20 FEED SUPPLY BASICALLY IS WHAT. YOU KNOW,
21 RECYCLABLES SEPARATED FOR REUSE ARE MATERIALS
22 INCLUDING COMMINGLED RECYCLABLES THAT HAVE BEEN
23 SEPARATED AND KEPT SEPARATE FROM THE SOLID
24 WASTESTREAM BY THEIR OWNER FOR THE PURPOSES OF

25

RECYCLING OR REUSE AS SEPARATED FOR REUSE.

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1 MR. BEST: I'M JUST SIMPLY TAKING THE
2 DEFINITIONS THAT WERE ADOPTED IN THE BOARD'S 1995
3 POLICY THAT SIMPLY HAD SOURCE SEPARATED AND
4 SEPARATED FOR REUSE. THEY ARE TWO DEFINITIONS.
5 ONE WAS INCLUSIVE OF THE OTHER. I'M JUST PROPOSING
6 THAT THE BOARD STAFF, IN ORDER TO SIMPLIFY THE
7 REGULATIONS, HAD TRIED TO MERGE THE TWO. I'M
8 SUGGESTING THAT KEEP THE TWO DEFINITIONS SEPARATE,
9 BUT HAVE THE SEPARATED FOR REUSE BE INCLUSIVE SO
10 THAT YOU COULD USE IT THROUGHOUT THE REGULATIONS.

11 MEMBER RELIS: SO IN AN OUTLINE FORM,
12 YOU'VE GIVEN IT A HIGHER CATEGORY AND SOURCE
13 SEPARATED IS A SUBSET.

14 MR. BEST: EXACTLY. AND THAT WAS WHAT THE
15 ORIGINAL WASTE BOARD POLICY IN 1995 DID.

16 MEMBER JONES: I THINK --

17 MEMBER RELIS: I SEE SHAKING AND NODDING
18 AND EVERYBODY.

19 MEMBER JONES: MR. BEST, ON ONE OF YOURS
20 WHERE IT SAYS ON E, THE ONLY SEPARATION OCCURRING
21 AT THE CENTER IS THE REMOVAL OF CONTAMINANTS AND
22 THE SORTING OF RECYCLED MATERIALS THAT HAVE ALREADY
23 BEEN -- IS THAT -- THAT'S NOT YOUR --

24 MR. BEST: THAT WAS SOME OTHER ITEMS WE

25 CAN DISCUSS LATER. BUT SINCE WE'RE NOW JUST
 165

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1 TALKING ABOUT SOURCE SEPARATED.

2 CHAIRMAN FRAZEE: OKAY. ANYONE ELSE? MR.
3 WHITE.

4 MR. WHITE: MR. CHAIRMAN AND MEMBERS OF
5 THE COMMITTEE, CHUCK WHITE WITH WASTE MANAGEMENT.
6 I THINK I WOULD CONCUR WITH THE PREVIOUS SPEAKERS,
7 THAT IT'S DESIRABLE TO KEEP THESE TWO DEFINITIONS
8 IN PLACE, NOT THE LEAST OF WHICH BEING THE REASON
9 THAT WE'RE USED TO THEM AND THEY SEEM TO WORK OKAY.
10 AND I DON'T THINK THERE'S ANY NEED NECESSARILY TO
11 COMBINE THEM INTO ONE DEFINITION.

12 HOWEVER, I WOULD REQUEST AND
13 SUGGEST -- AND I HOPE I DON'T GET CROSSWISE WITH
14 MR. JONES ON THIS ISSUE -- BUT THAT WE DO DELETE
15 THE WORDS "BY THEIR OWNER" IN BOTH DEFINITIONS
16 BECAUSE THERE ARE SITUATIONS, TWO SITUATIONS THAT I
17 KNOW I'M FAMILIAR WITH, WHERE THE SEPARATION WAS
18 UNCLEAR WHETHER THE OWNER IS ACTUALLY THE PERSON
19 DOING THE SEPARATION.

20 ONE SITUATION IS WE HAVE A LOT OF
21 LARGE NATIONAL CUSTOMERS THAT WE GO IN AND PROVIDE
22 AN ON-SITE SERVICE FOR MANAGING THE WASTE ON SITE,
23 AND WE MAY, AS THEIR AGENT, BE ACTUALLY DOING THE
24 SEPARATING OPERATION AT THE SITE OF A LARGE

25 INDUSTRIAL OR COMMERCIAL OPERATION. AND I WANT TO
 166

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1 MAKE SURE THAT WE CAN CONTINUE TO DO THAT WITHOUT
2 ANY CONFUSION ON ANYBODY'S PART.

3 THE SECOND SITUATION INVOLVES THAT WE
4 MIGHT CHOOSE TO GO AROUND AND PICK CLEAN LOADS OF
5 MATERIALS AND BRING THEM BACK FOR FURTHER
6 PROCESSING THAT -- FOR EXAMPLE, THAT MIGHT BE A
7 PALLET MANUFACTURER THAT BASICALLY 95 PERCENT OF
8 THE MATERIAL THAT GOES IN IS BROKEN PALLETS OR
9 WHATEVER AND MAYBE A FEW HAMBURGERS OR WASTE PAPER,
10 FOR EXAMPLE. WE'D LIKE -- IT'S BASICALLY PRETTY
11 CLEAN MATERIAL, BUT WE'D LIKE TO BE ABLE TO
12 SEPARATE THAT IN A DIFFERENT LOAD, DIFFERENT TRUCK
13 EVEN, AND BE ABLE TO BRING THAT BACK FOR
14 PROCESSING. IT COULD BE A CARDBOARD CUTTING
15 OPERATION, FOR EXAMPLE, THAT HAS BASICALLY VERY
16 CLEAN MATERIAL. WE'D LIKE TO BE ABLE TO KEEP THAT
17 SEPARATED RATHER THAN COMMINGLING IT AND BE ABLE TO
18 PUT IT INTO A SEPARATE UNIT FOR BRINGING BACK TO A
19 PROCESSING FACILITY.

20 THIS HAS BEEN KIND OF A VAGUE AREA
21 THAT'S BEEN SOMEWHAT CONFUSING IN THE PAST.
22 THERE'S SOME DISCUSSION AT THE STAFF LEVEL, AND I'M
23 NOT SURE IF I MISUNDERSTOOD -- I MAY HAVE

24 MISUNDERSTOOD DOROTHY JUST A MINUTE AGO WHEN SHE
25 WAS MAKING COMMENTS -- IS THAT REALLY BEING SOURCE
167

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1 SEPARATED BY THE GENERATOR, OR IS THAT BEING SOURCE
2 SEPARATED BY THE HAULER? WE REALLY DON'T THINK IT
3 MAKES ANY DIFFERENCE.

4 THE PURPOSE IS TO BASICALLY BE ABLE
5 TO GET CLEAN OR RELATIVELY CLEAN MATERIAL OUT AND
6 PROCESS IT FOR RECYCLING REGARDLESS OF WHETHER THAT
7 SEPARATION IS DONE BY THE GENERATOR OR BY THE
8 COLLECTOR OR BY SOMEBODY ELSE COMING IN AND
9 CONDUCTING THAT SOURCE SEPARATING OPERATION.

10 I DON'T MEAN TO GO DOWN THE PATH
11 SUGGESTING WE'RE GOING TO PICK UP THESE DIRTY LOADS
12 AND COMMINGLE WITH CLEAN LOADS AND SOMEHOW --
13 BECAUSE I THINK, WITH ELLIOT'S DISCUSSION, THAT
14 WOULD BE BASICALLY -- IT WOULDN'T BE ALLOWED UNDER
15 THE STRICT INTERPRETATION OF THE TWO-PART TEST.

16 ALL WE'RE SUGGESTING IS BEING ABLE
17 TO GO IN AT THE GENERATION POINT, GO WITH OUR
18 FAMILIARITY WITH OUR CUSTOMER'S WASTESTREAMS, BE
19 ABLE TO PICK OUT THOSE WASTESTREAMS THAT ARE
20 RELATIVELY CLEAN, AND PROCESS THEM AT A FACILITY.

21 SO WE WOULD URGE YOU TO KEEP THE
22 DIFFERENT DEFINITIONS, BUT SIMPLY STRIKE THE PHRASE
23 "BY THEIR OWNER" IN EACH OF THOSE TWO SITUATIONS TO

24 ALLOW BASICALLY EITHER THE OWNER OR SOMEONE UNDER
25 CONTRACT TO THAT OWNER OR COLLECTOR TO BE ABLE TO

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1 DO THE ACTUAL SEPARATION. THANK YOU.

2 CHAIRMAN FRAZEE: I WOULD AGREE WITH YOUR
3 SUGGESTION OF REMOVING BY THEIR OWNER. AND I WAS
4 THINKING ABOUT A SITUATION OF THE LARGE OFFICE
5 BUILDING WE VISITED IN SAN FRANCISCO WHERE THE
6 JANITORIAL SERVICE DOES THE SEPARATING, BUT THE
7 BUILDING MANAGER IS THE OWNER OF THE MATERIALS AND
8 HANDLES THE SHIPPING OUT OF THOSE, BUT IT'S THE
9 JANITORIAL SERVICE.

10 MR. WHITE: WHO'S THE OWNER ON A CURBSIDE
11 OPERATION IS PRETTY CLEAR, BUT WHO'S THE OWNER WHEN
12 YOU'RE DEALING WITH A SITUATION LIKE THIS IN AN
13 INDUSTRIAL-COMMERCIAL OPERATION IS LESS WELL
14 DEFINED, I THINK.

15 MEMBER JONES: BUT UNDER THAT SCENARIO,
16 MR. CHAIRMAN, WOULDN'T THE JANITORIAL SERVICE BE
17 WORKING AS A CONTRACTOR FOR THE OWNER OF THE
18 BUILDING?

19 CHAIRMAN FRAZEE: YES, BUT PROBABLY NOT
20 THE OWNER OF THE MATERIALS I THINK IS THE POINT MR.
21 WHITE IS MAKING.

22 MR. BLOCK: IF I MAY, I THINK THAT AT THE
23 TIME WE WROTE THE LANGUAGE, WE WERE PROBABLY
24 THINKING OF BY THE OWNER IN BROAD TERMS. SO THE

25 SITUATION LIKE THE JANITORIAL SERVICE OR THE ONE
 169

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1 THAT MR. WHITE HAS MENTIONED, IN THAT SITUATION WE
2 WOULD CONSIDER THE WHATEVER SERVICE IS SEPARATING
3 IT IS DOING IT IN A SENSE AS THE AGENT OF THE
4 OWNER. AND SO THAT WOULD BE SUBSUMED UNDER THIS,
5 BUT I DON'T KNOW THAT THERE'S ANY REGULATORY REASON
6 WHY WE NEED TO KEEP THAT LANGUAGE.

7 MR. WHITE: THERE'S ALSO A SITUATION YOU
8 HAVE INDUSTRIES THAT ARE VERY, VERY CLEAN
9 INDUSTRIES, AND THEY MAY ONLY HAVE ONE CONTAINER,
10 AND IT MAY BE 95 PERCENT CUTTINGS FROM CARDBOARD
11 OPERATION AND A JUST A FEW LITTLE RESIDUAL WASTES.
12 THERE ISN'T TWO SEPARATE CONTAINERS, BUT WE'D LIKE
13 TO BE ABLE TO TAKE THAT CONTAINER AND HANDLE IT
14 SEPARATELY AND EITHER CONSIDER THE ACTION OF THE
15 GENERATOR OR OUR ACTION, WHICHEVER ONE, TO BE ABLE
16 TO ALLOW THAT TO BE A SOURCE SEPARATED MATERIAL
17 BECAUSE WE'RE MAKING THE DECISION TO HANDLE IT
18 SEPARATELY AS A RECOVERABLE COMMODITY RATHER THAN
19 AS A WASTE REQUIRING DISPOSAL.

20 I WANT TO MAKE SURE THAT ISSUE IS
21 CLEAR, AT LEAST I'D LIKE TO MAKE SURE IT'S CLEAR.

22 MEMBER RELIS: MR. CHAIR, I HAVE A
23 SUGGESTION. I THINK THIS IS GETTING REAL
24 DETAILED. I THINK THAT WE UNDERSTAND -- YOU'VE

25 MADE THE POINT. I THINK THERE'S RECEPTIVITY TO
 170

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1 CLARIFYING WHAT OWNER IS TO THE DEGREE THAT IT NOT
2 PREVENT YOU FROM DOING WHAT YOU SAID. AND I'D
3 RATHER USE OUR TIME TO DEAL WITH THE DIRECTION; AND
4 IF IT'S OKAY WITH YOU, I THINK WE HAVE THE INPUT,
5 AND WE COULD DIRECT STAFF TO WORK WITH THOSE
6 DEFINITIONS.

7 CHAIRMAN FRAZEE: OKAY. NOW, IS THERE
8 ANYONE ELSE ON THIS PARTICULAR ISSUE? IF NOT, WE
9 HAVE A REQUEST TO MOVE TO ITEM 6, THE CAL-OSHA
10 MEMORANDUM OF UNDERSTANDING. AND LET'S DO THAT ONE
11 NEXT.

12 MS. REHBURG: YES. DURING THE INFORMAL
13 COMMENT PERIOD, COMMENTERS RAISED THIS ISSUE OF
14 REGULATORY OVERLAP WITH THE DEPARTMENT OF
15 INDUSTRIAL RELATIONS, DIVISION OF OCCUPATIONAL
16 SAFETY AND HEALTH, WHICH IS MORE COMMONLY REFERRED
17 TO AS CAL-OSHA.

18 STAFF MET WITH CAL-OSHA REPRESENT-
19 TIVE, LES MICHAELS, REGARDING OVERLAP ISSUES. MR.
20 MICHAELS IS IN THE AUDIENCE TO ANSWER YOUR
21 QUESTIONS. MANY OF THE OVERLAP ISSUES IDENTIFIED
22 HAVE BEEN IN BOARD REGULATIONS FOR 20 YEARS AND ARE
23 HISTORIC HEALTH AND SAFETY STANDARDS.

24 CAL-OSHA RAISED SOME AREAS OF CONCERN

25 REGARDING ANY BOARD REGULATIONS WHICH MAY

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1 UNNECESSARILY DUPLICATE AND INCORRECTLY REFERENCE
2 THEIR TITLE 8 REGULATIONS WITHOUT AN MOU IN PLACE
3 BETWEEN OUR RESPECTIVE AGENCIES.

4 THE AREAS OF CONCERN ARE IN BOARD
5 STANDARDS FOR PERSONAL HEALTH AND SAFETY, SANITARY
6 FACILITIES, AND TRAINING. IN ORDER TO REMEDY THE
7 SITUATION, STAFF PROPOSES THAT A MEMORANDUM OF
8 UNDERSTANDING BE DEVELOPED BETWEEN THE BOARD AND
9 CAL-OSHA WHICH WOULD ADDRESS ANY POTENTIAL
10 REGULATORY OVERLAP.

11 THE MEMORANDUM OF UNDERSTANDING IS A
12 MECHANISM THAT HAS BEEN USED BY SEVERAL OTHER
STATE
13 AGENCIES UNDER SIMILAR CIRCUMSTANCES.

14 IT IS STAFF'S INTENTION TO
STREAMLINE

15 THE LEA WORKER HEALTH AND SAFETY REFERRAL PROCESS
16 TO CAL-OSHA BY IMPLEMENTING THE MEMORANDUM OF
17 UNDERSTANDING WHILE RETAINING THE BOARD'S HISTORIC
18 HEALTH AND SAFETY STANDARDS.

19 SOME LEA'S SUPPORT A POSITION OF
20 REFERRAL TO CAL-OSHA ON IMMEDIATE THREATS TO
WORKER

21 HEALTH AND SAFETY AND DON'T WANT TO ESTABLISH

22 STRICTER STANDARDS THAN ARE OUTLINED IN THE
23 INFORMAL DRAFT REGULATIONS. OTHER LEA'S SUPPORT
24 MAINTAINING AND/OR ACQUIRING MORE WORKER HEALTH
AND
25 SAFETY AUTHORITY.

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1 STAFF RECOMMENDS DEVELOPING AN MOU
2 WITH CAL-OSHA AND BRINGS THIS FORWARD AS AN ISSUE
3 FOR DISCUSSION AND DIRECTION FROM THE COMMITTEE.

4 MEMBER RELIS: MR. CHAIR, I HAVE A
5 QUESTION. ON THE MATTER, MAYBE I HAD IT WRONG, BUT
6 I THOUGHT DUST WAS ONE OF THE CONSIDERATIONS HERE
7 AS TO WHY WE MIGHT WANT TO DO THIS? AND CAN
8 SOMEONE REFRESH MY MEMORY? MAYBE I'M OFF BASE.

9 MS. REHBERG: DUST IS AN ISSUE WE'D LIKE
10 TO ADDRESS; HOWEVER, IT WASN'T IDENTIFIED BY
11 CAL-OSHA AS AN ISSUE OF OVERLAP.

12 MEMBER RELIS: SO THE AUTHORITY FOR DUST
13 IS WITH US THEN? OR CAN SOMEONE CLARIFY THAT
14 BECAUSE I ALWAYS THOUGHT THAT WAS A --

15 MR. BLOCK: WELL, THERE'S KIND OF A
16 THREE-WAY TIE, IF YOU WILL, HERE. AND THAT'S
17 PROBABLY ONE OF THE REASONS WHY IT WASN'T
18 IDENTIFIED EARLIER IN THE PROCESS. DUST IS WITHIN
19 THE JURISDICTION OF THE AIR BOARD. AND --

20 MEMBER RELIS: INSIDE A BUILDING.

21 MR. BLOCK: FOR THE MOST PART. AND WHAT
22 WE HAVE DONE --

23 MEMBER RELIS: I GUESS I'M THINKING
24 INSIDE.

25

MR. BLOCK: HOWEVER, WHERE DUST IS
173

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1 IMPLICATING HEALTH OF THE WORKERS, THAT WOULD BE
2 WITHIN THE JURISDICTION OF CAL-OSHA.

3 WHAT WE HAD DONE IN THE 1220
4 REGULATIONS WITH DUST WAS TAKE THE THIRD PIECE OF
5 THE PIE, IF YOU WILL, AND LIMIT OUR STANDARDS FOR
6 DUST TO WHERE IT IMPACTS OR INTERFERES WITH THE
7 OPERATION ITSELF. IN OTHER WORDS, NOT THE HEALTH
8 AND SAFETY ISSUES IN TERMS OF WORKERS OR HEALTH AND
9 SAFETY ISSUES IN TERMS OF PUBLIC, WHICH WOULD BE
10 THE AIR BOARD, BUT SPECIFICALLY IF YOU HAD A DUST
11 PROBLEM THAT WAS INTERFERING WITH THE OPERATION
12 RUNNING SMOOTHLY.

13 AND SO IN REDEFINING THAT LANGUAGE, I
14 GUESS THAT'S WHY IT WASN'T NECESSARILY PICKED UP ON
15 BY CAL-OSHA.

16 MEMBER RELIS: MY CONCERN WASN'T WITH THE
17 OPERATION RUNNING SMOOTHLY. IT WAS WITH THE HEALTH
18 IMPLICATIONS. AND SO I WAS HOPING THAT WE COULD
19 GET SOMEWHERE WITH A MORE PERFORMANCE BASED, NOT A
20 UNIFORM TECHNOLOGY, BUT A PERFORMANCE BASED DUST
21 CONTROL THAT ASSURED HEALTH AND SAFETY, SAFETY OF
22 WORKERS, BUT WE'RE NOT THAT BODY THAT DOES THAT
23 SORT OF THING. THAT'S WHY I THOUGHT A TIE WITH
24 CAL-OSHA HERE WOULD BE POTENTIALLY A GOOD THING.

25 THEY COULD -- SO THERE IS A REPRESENTATIVE.
174

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1 CHAIRMAN FRAZEE: YES. MR. MICHAELS,
2 WOULD YOU LIKE TO COME FORWARD AND GIVE US YOUR
3 THOUGHTS.

4 MR. MICHAELS: THANK YOU, GENTLEMEN FOR
5 MOVING ME UP ON THE CALENDAR.

6 CHAIRMAN FRAZEE: SORRY WE KEPT YOU THIS
7 LONG.

8 MR. MICHAELS: QUITE ALL RIGHT. I WAS
9 LATE IN COMING BACK. I THOUGHT I KNEW THE TOWN
10 BETTER THAN I DID. I SAW A LOT OF COUNTRY.

11 WITH REGARD TO THE DUST QUESTION, WE
12 DO HAVE A WHAT USED TO BE CALLED A NUISANCE DUST
13 CATEGORY OR DUST NOT OTHERWISE CLASSIFIED. IN
14 FACT, WE HAD DISCUSSIONS YESTERDAY ABOUT SUCH
15 THINGS IN OUR RULEMAKING ACTIVITY.

16 THERE IS A PERMISSIBLE EXPOSURE LIMIT
17 FOR GROSS DUST, BUT, AGAIN, OUR PURVIEW, AS YOU
18 RECOGNIZED, IS THE WORKER. AND WE USED TO SAY 20,
19 30 YEARS AGO, RESOLVE YOUR HEALTH AND SAFETY
20 PROBLEM BY KICKING IT OUTSIDE THE BUILDING. NOW WE
21 HAVE AIR QUALITY MANAGEMENT DISTRICTS THAT DO
22 ADDRESS THAT ISSUE. AND SO IF THEY SEE THE PLUME,
23 THEY GOT YOU. BUT THAT'S THEM, NOT US.

24 OURS IS A 10 MILLIGRAMS PER CUBIC

25 METER DUST, AND ABOUT 20 YOU CAN'T SEE. AND YOU
 175

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1 CAN'T SEE IS WHAT IS CITED IN YOUR PROPOSED
2 REGULATION.

3 MEMBER RELIS: SO LET ME JUST ASK THEN.
4 YOU JUST SET FORTH A STANDARD. THAT WOULD BE TRUE
5 INSIDE ANY OPERATION.

6 MR. MICHAELS: IT WOULD BE TRUE WITH
7 REGARD TO WORKER PERSONNEL WHERE THERE'S AN
8 EMPLOYER-EMPLOYEE RELATIONSHIP.

9 MEMBER RELIS: THAT'S THE FIRST TIME I'VE
10 HEARD THAT. I DIDN'T KNOW THERE WAS SUCH A NUMBER
11 AROUND. SO THAT GOES A LONG WAY. YOU'RE THE
12 SAFETY PEOPLE. WE'RE NOT. LIKE TO HAVE HAD THAT
13 REFERENCE ALL ALONG.

14 MR. MICHAELS: DON'T MINIMIZE YOUR SAFETY
15 RESPONSIBILITY. YOU HAVE A LARGE OBLIGATION TO THE
16 PUBLIC.

17 MEMBER RELIS: I UNDERSTAND THAT, BUT FOR
18 THE WORKER ONLY IS WHAT I'M --

19 MR. MICHAELS: I JUST DIDN'T WANT THAT TO
20 SHOW ON THE RECORD WITHOUT YOUR COMING BACK AND
21 SAYING YOU RECOGNIZE IT. PRINTED WORDS ARE HARD TO
22 LIVE BY SOMETIMES.

23 MEMBER RELIS: SO DO I UNDERSTAND FROM
24 THIS THAT THERE IS AN EXPOSURE LEVEL THAT YOU -- 10

25 TO -- WHAT WAS THE NUMBER?
 176

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1 MR. MICHAELS: TEN MILLIGRAMS PER CUBIC
2 METER TOTAL DUST. WE HAVE A --

3 MEMBER RELIS: DO WE REFERENCE CAL-OSHA?
4 WE DON'T, DO WE?

5 MR. BLOCK: NO, BECAUSE WE HAVEN'T
6 ESTABLISHED ANY STANDARDS FOR WORKER HEALTH AND
7 SAFETY.

8 MS. RICE: BUT AS HE INDICATED, INDIRECTLY
9 WE DO BY USING THE PHRASE "OBSCURED VISIBILITY,"
10 WHICH HE IS SAYING THAT AT A CERTAIN POINT YOU
11 CAN'T SEE. SO ONCE VISIBILITY IS OBSCURED --

12 MEMBER RELIS: THAT'S AN OPERATIONAL
13 SIDE. SO SOMEBODY TELL ME --

14 MR. MICHAELS: IT WOULD BE OF CONCERN TO
15 US IF IT PUTS AN OPERATOR AT RISK. BUT IF IT PUTS
16 THE PUBLIC AT RISK, WE WOULD VIEW THAT AS YOUR
17 JURISDICTION.

18 MS. RICE: AND IT SOUNDS AS THOUGH IT
19 COMES BACK AROUND IN A CIRCLE BECAUSE IF THE
20 OPERATOR IS AT RISK BECAUSE OF IMPAIRED VISIBILITY,
21 THEN YOU ARE IMPACTING THE OPERATION OF THE
22 FACILITY, AND IT CONNECTS BACK TO OUR STANDARD. SO
23 THERE'S A CONNECTION HERE. AS ELLIOT SAID, IT

24 SEEMS THREE-WAY, AND I'M NOT QUITE SURE IN
25 PRACTICALITY HOW THAT WORKS, WHICH IS WHY I THINK
177

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1 STAFF HAD ENTERED INTO THE DISCUSSIONS WITH
2 CAL-OSHA OVER THE ADVISABILITY OF AN MOU WHEREBY
3 SOME OF THESE ISSUES COULD BE CLARIFIED IN TERMS OF
4 JURISDICTION BECAUSE IT IS CLOUDY OR DUSTY, AS IT
5 WERE.

6 MEMBER RELIS: IT'S 20 PARTS RIGHT NOW.

7 CHAIRMAN FRAZEE: DO YOU HAVE MOU'S WITH
8 ANY OTHER REGULATORY --

9 MR. MICHAELS: WE HAVE THREE. WE HAVE ONE
10 THAT'S CREATED BY STATUTE WITH THE DEPARTMENT OF
11 PESTICIDE REGULATION, WHICH IS A VERY BROAD
12 MEMORANDUM OF UNDERSTANDING WHICH GIVES THEM
13 ENFORCEMENT AUTHORITY, WHICH THEN THEY PASS ON TO
14 THEIR COUNTY AGRICULTURAL COMMISSIONERS.

15 WE HAVE ONE WITH THE FISH AND GAME
16 WHICH WE HAVE MUTUAL ACTIVITIES IN HAZARDOUS WASTE
17 AND EMERGENCY RESPONSE. THEY DESIRED A MEMORANDUM
18 OF UNDERSTANDING TO GIVE THEIR ON-SITE MARINE SPILL
19 OPERATIVES, ENFORCEMENT OFFICERS, CLOUT OR THE
20 THREAT OF CALLING CAL-OSHA TO ADDRESS SITUATIONS
21 SUCH AS MOVING THINGS OVER PEOPLE'S HEAD OR
22 INADEQUATE RESPIRATOR PROGRAMS AND THE LIKE.

23 MEMBER RELIS: MR. CHAIR, SINCE WE'RE

24 BEING ASKED FOR DIRECTION, I WOULD HOPE WE COULD DO
25 WHAT STAFF IS -- STAFF BRINGS THE MOU CONCEPT AS AN
178

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1 ISSUE FOR DISCUSSION AND DIRECTION. AND I HOPE WE
2 COULD STRUCTURE AN MOU THAT INCLUDES THIS ISSUE OF
3 THE RESPONSIBILITIES FOR DUST. AND I WOULD JUST
4 ADD THAT TO YOUR LIST, IF THAT'S ACCEPTABLE TO THE
5 OTHER COMMITTEE MEMBERS.

6 MEMBER JONES: I HAVE A COUPLE OF
7 QUESTIONS. ARE THE LEA'S FULFILLING THE CAL-OSHA
8 FUNCTIONS RIGHT NOW?

9 MR. MICHAELS: IN THE ONE MEETING I WENT
10 TO IN REDDING, THEY WERE NOT ANXIOUS TO ENGAGE IN
11 WORKER PROTECTION REGULATIONS. IN PARTICULAR, THE
12 INJURY AND ILLNESS PREVENTION PROGRAM WAS PRESENTED
13 TO THEM AS A VEHICLE. AND THEY SAID, NO, WE HAVE
14 OTHER VEHICLES AND WE'RE NOT ALL THAT ANXIOUS TO
15 EMBRACE OR TO ENGAGE IN ENFORCEMENT ACTIVITY.

16 MEMBER JONES: BECAUSE THEY CALL FOR THOSE
17 THINGS AS PART OF WHEN THEY REVIEW OUR FACILITIES
18 TO MAKE SURE THAT WE HAVE THEM, BUT I'M NOT SURE
19 THAT THEY ARE THE PROPER OSHA INSPECTORS.

20 MR. MICHAELS: I DON'T THINK THEY WOULD
21 HAVE JURISDICTION. I DON'T THINK IT WOULD HOLD UP
22 BECAUSE OF THE DUAL POTENTIAL FOR AN AFFIRMATIVE
23 DEFENSE OF DUAL AUTHORITY. AND YOU CAN'T BE
24 WHACKED ON BOTH SIDES OF THE HEAD.

25

MEMBER JONES: SO IF WE ENTERED INTO AN
179

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1 MOU, WHAT WE WOULD BE ENTERING INTO AN MOU TO
2 ACCOMPLISH BECAUSE I HAVE CONCERN? I WAS WRITTEN
3 UP BY AN LEA ONE TIME BECAUSE AN EMPLOYEE OF MINE
4 HAD A BACK BELT ON, AND THAT LEA HAD HEARD
5 SOMEWHERE THAT YOU SHOULDN'T HAVE THOSE CONNECTED
6 WHEN YOU ARE NOT LIFTING SOMETHING. SO HE WROTE ME
7 UP ON MY REPORT, MY FACILITY REPORT.

8 AND I ASKED HIM IF HE WAS ONE OF MY
9 FOUR EMPLOYEES THAT WERE UNDER DOCTOR'S CARE FOR
10 BAD BACKS AND WAS WEARING THAT AS PART OF A
11 DOCTOR'S NOTE. HE DIDN'T KNOW; HE DIDN'T CARE.

12 SO, YOU KNOW, I NEED TO KNOW WHAT THE
13 SCOPE OF THESE LEA'S IN DEALING WITH HEALTH AND
14 SAFETY ISSUES IS GOING TO BE WHEN IT COMES TO --
15 YOU KNOW, WHEN SOMEBODY WRITES YOU UP AND THEY
16 DON'T HAVE A CLUE AS TO WHY THEY'RE WRITING YOU UP,
17 EXCEPT THAT THEY READ THAT YOU SHOULD HAVE KEPT
18 THEM UNHOOKED, THAT BOTHERS ME.

19 MR. MICHAELS: WELL, THERE'S A SHORT
20 ANSWER AND A LONG ANSWER, AND I'M NOT GOOD WITH
21 SHORT ANSWERS.

22 PRIOR TO JULY 3D OF THE YEAR, THERE
23 WAS NO ERGONOMIC STANDARD IN THE COUNTRY. THERE IS
24 NOW SUCH. SO IF THAT ACTIVITY WAS CONDUCTED PRIOR

25 TO THAT, WHAT THAT LEA WAS ADDRESSING, OTHER THAN
 180

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1 THE "SACRAMENTO BEE" OR THE "SAN FRANCISCO
2 CHRONICLE" OR IF I LEFT A PAPER OUT WHO'S HERE, I'M
3 SORRY. THIS IS COMMON IN OUR GENRE, BUT THE
4 SITUATION IS THAT WE DON'T ENFORCE UNLESS WE HAVE A
5 REGULATION. WE DON'T ENFORCE UNLESS WE HAVE
6 JURISDICTION.

7 AND AGAIN, AS I UNDERSTOOD THE LEA'S,
8 THEY DID NOT WANT WORKER HEALTH AND SAFETY ISSUES
9 FOR THEM TO ENFORCE. BUT THAT WAS JUST ONE GROUP.
10 THIS MORNING I HEARD THAT THEY'RE ALL HOT FOR THAT
11 IN L.A. SO I DIDN'T GO TO THE MEETING OUT THERE OR
12 THE MEETING HERE IN SACRAMENTO AS WELL. I THINK
13 IT'S AN ISSUE FOR YOUR STAFF TO ADDRESS AS THEY USE
14 AND GUIDE THE LOCAL ENFORCEMENT AGENTS TO ENFORCE
15 YOUR REGULATIONS.

16 AND I THINK THE DIVISION, EITHER AS
17 PART OF OR SEPARATE FROM THE MOU, WOULD BE PLEASED
18 TO INTERACT WITH THEM TO ASSIST THEM IN BEING
19 APPRISED OF WORKER SAFETY AND HEALTH ISSUES WHICH
20 THEY COULD THEN CALL TO THE ATTENTION OF THE
21 DIVISION AS THEY DEEM APPROPRIATE RATHER THAN TAKE
22 ENFORCEMENT ACTION THEMSELVES. THAT WAS A SHORT
23 ANSWER.

24 CHAIRMAN FRAZEE: YES. OKAY. I SEE MR.
25 HANSON MOVING UP. PERHAPS WE CAN HEAR FROM HIM ON
 181

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1 THIS ISSUE.

2 MR. HANSON: I DON'T KNOW WHO THE GENTLE-
3 MAN WAS REFERRING TO THAT L.A. WAS HOT FOR THIS
4 ISSUE. IT'S THE ONE ISSUE HERE THAT I DON'T FEEL
5 COMPETENT OR I'M AUTHORIZED TO COMMENT ON BECAUSE I
6 HAVEN'T DISCUSSED.

7 MEMBER RELIS: THE ISSUE BEING
8 WHAT?

9 MR. HANSON: THE MOU, THE POSSIBLE MOU. I
10 DO KNOW THAT THERE ARE SEVERAL LEA'S THROUGHOUT THE
11 STATE WHO LOOK AT WORKER SAFETY AND HEALTH VERY
12 CLOSELY. AND THEY MAY NOT DIRECTLY ENFORCE
13 ANYTHING, BUT THEY CERTAINLY ARE VERY ACTIVE IN
14 REFERRING IT TO THE PROPER AGENCIES. AND PERHAPS
15 HE WAS REFERRING TO THE CITY OF LOS ANGELES THAT
16 DOES HAVE A FEW INDUSTRIAL HYGIENISTS ON THEIR
17 STAFF. AND SO THEIR STAFF, THE LEA STAFF, IS VERY
18 AWARE OF ALL THE VARIOUS HEALTH AND SAFETY ISSUES
19 REGARDING WORKERS AT THEIR FACILITIES.

20 NOW, AGAIN, I DON'T BELIEVE THAT THEY
21 ENFORCE ANY OF THIS DIRECTLY, BUT THEY'RE AWARE OF
22 THE PROBLEMS AND SO THEY MAKE THE PROPER
23 REFERRALS.

24 CHAIRMAN FRAZEE: OKAY. MR. SWEETSER.

25

DID YOU HAVE A COMMENT?

182

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1 MS. RICE: I'D BE HAPPY TO WAIT FOR MR.
2 SWEETSER.

3 MR. SWEETSER: LARRY SWEETSER, NORCAL, ONE
4 MORE TIME AND I THINK A FEW MORE.

5 I'VE DEALT WITH THIS ISSUE QUITE
6 EXTENSIVELY ON A LOT OF OUR SITES, AND I'VE BEEN ON
7 THE RECEIVING END OF A LOT OF OUR MANAGERS WHEN
8 THEY HAVE THE CONCERN ADDRESSED IN INSPECTIONS.
9 AND I THINK ONE THING FROM AN OPERATOR PERSPECTIVE
10 IS WE DON'T MIND ANY INSPECTOR, BE IT LEA'S OR
11 OTHERS, POINTING OUT AN AREA OF OBVIOUS CONCERN.
12 AND I THINK MOST LEA'S DO THAT ANYWAY. WE
13 APPRECIATE THAT BECAUSE WE LIKE TO TAKE CARE OF
14 THOSE THINGS BEFORE THEY BECOME A PROBLEM.

15 OUR CONCERN BOILS DOWN WHEN WE START
16 GETTING VIOLATIONS FOR THINGS THAT THEY MAY NOT
17 HAVE ALL THE INFORMATION OR THEY MAY NOT HAVE ALL
18 THE TRAINING FOR. SO WE HAVE TO BE REALLY
CAREFUL

19 WITH THE MOU PROCESS. UNFORTUNATELY, THAT'S ONE
20 OF
21 THE AREAS WHERE WE SEE IT MANIFESTING ITSELF IS
IN
THE PERMITS IN TERMS AND CONDITIONS WHERE THESE

22 THINGS KEEP CROPPING UP.

23 RATHER THAN ADDRESSING TOO MUCH OF
IT

24 IN THIS ISSUE ON THE TIERS, I THINK THE
APPROPRIATE

25 PLACE WE NEED TO BE LOOKING AT THIS IS IN THE BCP
183

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1 PROCESS WHERE WE'RE LOOKING AT WHAT IS A PERMIT
2 ANYWAY BECAUSE A LOT OF THAT ANALYSIS GOES ON IN
3 THE TERMS AND CONDITIONS OF PERMITS.

4 SO IF WE CAN LOOK AT IT IN THAT ARENA
5 WHERE WE'RE GOING TO HAVE A LOT OF DISCUSSIONS ON
6 EVERY TYPE OF AGENCY PURVIEW IN THESE THINGS, I
7 THINK IT WILL BENEFIT ALL OF US TO BE LOOKING
8 THERE. AND I THINK THERE ARE AREAS THAT NEED TO BE
9 ADDRESSED IN TRYING TO FIGURE OUT WHERE THE
10 THREE-HEADED MONSTER AND WHO'S IN CHARGE OF WHAT
11 END OF IT BECAUSE I DON'T THINK ANY OF US WANT TO
12 GET AS -- HOPEFULLY HE DOESN'T MIND ME QUOTING HIM
13 HERE AND LATER -- FROM CAL-OSHA. NONE OF US LIKE
14 BEING WHACKED ON BOTH SIDES OF OUR HEADS BY TWO
15 DIFFERENT AGENCIES FOR THE SAME ISSUE. I WOULD
16 SUGGEST THAT MAY BE A FORUM WE CAN LOOK.

17 CHAIRMAN FRAZEE: DO YOU SEE SOME VALUE IN
18 AN MOU ATTEMPTING TO CLEARLY DEFINE THE AREAS OF
19 RESPONSIBILITY?

20 MR. SWEETSER: I THINK IT WOULD HELP ALL
21 OF US TO HAVE AN AREA WHERE THAT LINE IS DRAWN
22 BECAUSE WE KEEP RUNNING INTO THE PROBLEM TIME AND
23 TIME AGAIN. MONTHS AGO I BROUGHT FORWARD AN ISSUE

24 ON ONE OF OUR PERMITS WHERE IT CROSSED WITH THE
25 WATER BOARD. WE STILL HAVE THAT ISSUE ON WATER
 184

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1 BOARD AND WHERE THE BOARD VERSUS THAT OTHER BOARD
2 IS AT. WE STILL HAVE THAT ISSUE WITH CAL-OSHA ON
3 WORKER SAFETY ISSUES, ESPECIALLY THE INJURY-ILLNESS
4 PREVENTION PLAN. THAT SEEMS TO BE A TARGET TO PUT
5 IN THERE. I DON'T THINK THERE'S A LOT OF CLARITY
6 ON LEA'S ON WHAT THAT DOCUMENT REALLY IS.

7 IF WE DON'T HAVE TO SUBMIT IT TO OSHA
8 FOR REVIEW, WHY DOES THE LEA NEED IT FOR REVIEW?
9 IF WE HAVE IT, IT'S AVAILABLE. WE'RE COMPLYING
10 WITH IT. SO HAVING AN MOU WHERE IT CLEARLY
11 DELINEATES WHERE THAT LINE IS WOULD HELP. I DON'T
12 KNOW IF THERE'S ENOUGH TIME TO DISCUSS THAT AS PART
13 OF THE REGULATORY PACKAGE WITH THE TIERS IS MY
14 CONCERN. IT DOES DESERVE SOME ISSUES.

15 CHAIRMAN FRAZEE: STEVE, HOW DO YOU FEEL?

16 MEMBER JONES: TALK ABOUT WHERE THE LINE
17 IS GOING TO BE.

18 CHAIRMAN FRAZEE: I DON'T KNOW THAT WE CAN
19 GET INTO THAT DEPTH. CAN WE DRAW A LINE, I GUESS,
20 IS THE QUESTION.

21 MS. RICE: JUST FOR A MOMENT OF CONTEXT,
22 AND THEN, ELLIOT, GO AHEAD. I'M SURE THAT YOU'LL
23 HELP MORE THAN I WILL. MY UNDERSTANDING OF HOW WE
24 ARRIVED AT PLACING THIS ISSUE ON YOUR AGENDA TODAY

25

TO GET DIRECTION FROM YOU IS THAT THERE HAS BEEN AN
185

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1 HISTORIC STANDARD REGARDING WORKER HEALTH AND
2 SAFETY ON THE BOOKS, WASTE BOARD REGULATIONS, FOR
3 MANY, MANY YEARS.

4 WE CARRIED A SIMILAR STANDARD FORWARD
5 IN THE DRAFT REGULATION, BUT MADE SOME MODIFICA-
6 TIONS WHICH HAVE GOTTEN PEOPLE'S ATTENTION. THE
7 PRIOR REGULATION OR THE EXISTING REGULATION, AS I
8 WOULD TERM IT, IS MORE GENERAL AND SPEAKS TO WORKER
9 ISSUES, SUCH AS ADEQUATE TRAINING, EQUIPMENT, AND
10 SANITARY FACILITIES, BUT DOES NOT SPEAK TO THE
11 DETAIL OF REVIEWING THE DETAILS OF WHAT IS AT THE
12 IIPP.

13 AND IN DISCUSSIONS, THEN, WITH
14 CAL-OSHA ABOUT WHERE THE LINE IS DRAWN, IT APPEARED
15 APPROPRIATE TO OUR STAFF TO START THINKING ABOUT
16 WOULD AN MOU ASSIST IN CLARIFYING. WE HAVE ALWAYS
17 HAD A REGULATION ON THE BOOKS, AND MAYBE IT HAS
18 NEVER BEEN CLEAR WHAT THE JURISDICTION OF THE LEA
19 WAS IN TERMS OF ENFORCING THE STANDARD AND WHEN
20 THOSE ISSUES WERE APPROPRIATELY IN THE PURVIEW OF
21 CAL-OSHA. ARE THERE THINGS THAT WE COULD DO IN
22 CONJUNCTION WITH CAL-OSHA TO BETTER ASSIST AND
23 TRAIN THE LEA.

24 SO IT BROUGHT THESE ISSUES TO THE

25 FORE; AND IN DOING THAT, WE GOT A LOT OF COMMENT
 186

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1 THAT MAYBE THE STANDARD SHOULDN'T BE THERE AT ALL.
2 MAYBE THE LEA SHOULD NOT BE INVOLVED IN WORKER
3 ISSUES AT ALL, KIND OF QUESTIONING THE UNDERLYING
4 REG THAT HAS ALWAYS BEEN THERE AND, AS I UNDERSTAND
5 IT, SURVIVED 1220. I UNDERSTAND THAT SOME THINK IT
6 SHOULD NOT HAVE, BUT IT DID.

7 AND SO WE WERE NOT TRYING TO RAISE AS
8 A NEW ISSUE WHETHER THE LEA SHOULD BE INVOLVED IN
9 WORKER ISSUES, BUT WE WERE TRYING TO CLARIFY THE
10 SCOPE OF THAT. AND I THINK IT'S RAISED SOME GOOD
11 DISCUSSION AND SHOWS US THE MERIT OF A CLOSER
12 RELATIONSHIP WITH CAL-OSHA SO THAT WE CAN ASSIST
13 LEA'S IN DOING THEIR JOB IF THE STANDARD STAYS IN
14 THE REGULATION WITH CLARIFICATION AS MAY BE NEEDED
15 BASED ON THE COMMENT WE'RE GETTING THAT IT MAY BE
16 TOO SPECIFIC, THE LANGUAGE WE HAVE HERE. MAYBE THE
17 MORE GENERAL KIND OF PHRASING THAT WE'VE HAD ALL
18 THESE YEARS IS BETTER.

19 MEMBER JONES: WHEN I READ THE THING AND
20 WHEN I FIRST THOUGHT ABOUT THE THING, I THOUGHT NO
21 WAY. I MEAN I'M GOING TO BE REAL HONEST. I
22 THOUGHT THIS WAS CRAZY FOR A LOT OF REASONS.

23 ONE OF THEM IS LEVEL OF EXPERTISE.

24 AND, YOU KNOW, THIS ISN'T AN ISSUE OF I DON'T WANT
25 TO PROTECT THE WORKERS. I HAD 2500 OF THEM. BUT

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1 IT IS IN WHAT -- WHERE IS THAT LINE DRAWN AS TO
2 WHAT ARE THEY GOING TO LOOK AT? ARE THEY GOING TO
3 WRITE US UP BECAUSE, YOU KNOW, AN EMPLOYEE IS
4 WEARING A WEIGHT BELT BECAUSE HE'S BEEN WRITTEN UP
5 BY THE DOCTOR AND SUGGESTED TO? IS HE WEARING
6 TENNIS SHOES ON THE FACILITY WHEN OUR COMPANY RULES
7 ARE THAT HE WEARS BOOTS, YOU KNOW, AND THOSE TYPES
8 OF THINGS. AND PEOPLE SHRUG AND THEY SAY, NAH,
9 THAT DOESN'T HAPPEN.

10 AND I'LL TELL YOU RIGHT NOW PEOPLE --
11 YOU KNOW, AND IT'S GOOD THAT LEA'S QUESTION THOSE
12 TYPES OF ISSUES. BUT I'M SURE -- I DON'T WANT THEM
13 BEING ABLE TO WRITE VIOLATIONS ON CAL-OSHA BECAUSE
14 PRETTY SOON THEN WHAT THEY'RE GOING TO DO IS WALK
15 AROUND AND DO LIGHT SOCKET INSPECTIONS AND -- YOU
16 KNOW, OR I WOULD AT LEAST LIKE TO SEE HOW THE THING
17 IS GOING TO BE DRAWN UP AS TO WHAT GENERAL
18 GUIDELINES WOULD BE AND SOME THINGS LIKE THAT
19 BECAUSE ON THE SURFACE I THINK IT'S A BAD IDEA TO
20 GIVE THEM -- YOU KNOW, TO INCLUDE THAT STUFF.

21 NOTICE IT. I THINK IT'S IMPORTANT
22 THAT LEA'S NOTICE THOSE ISSUES. NOTIFY CAL-OSHA IF
23 THERE'S AN ISSUE. BUT PROBABLY MORE APPROPRIATELY

24 TALK TO THE OPERATOR, YOU KNOW, AND MAKE SURE THAT
25 THE OPERATOR IS AWARE THAT MAYBE HIS PERSONAL

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1 HEALTH STANDARDS FOR HIS EMPLOYEES AREN'T WHERE
2 THEY NEED TO BE. AND IF THAT LEA DOESN'T SEE ANY
3 RESPONSE TO THAT, WHICH I CAN'T BELIEVE WOULD
4 HAPPEN, THEN GET IN TOUCH WITH CAL-OSHA, YOU KNOW,
5 AND DEAL WITH IT. BUT I DON'T KNOW. I AM NERVOUS
6 ABOUT LEA'S STARTING TO WRITE CAL-OSHA VIOLATIONS.

7 CHAIRMAN FRAZEE: I DIDN'T SEE THAT AS THE
8 INTENT OF THIS AT ALL, BUT WAS CLEARLY AN EFFORT TO
9 DRAW A LINE.

10 MR. MICHAELS: JUST AS A SAFETY AND HEALTH
11 PERSON, I WOULDN'T WANT TO DISCOURAGE ANYBODY FROM
12 MAKING A REMARK ABOUT SAFETY AND HEALTH TO ANYONE
13 AT ANY TIME. SOMEBODY SAYS DUCK BECAUSE YOU'RE
14 GOING TO THROW SOMETHING, I'M GOING TO DUCK AND
15 APPRECIATE THE SUGGESTION. BUT YOU DO HAVE THE
16 BROAD VENUE, AND I KNOW IT'S PARTICULARLY DIFFICULT
17 FOR YOU TO -- AND FOR THE LEA'S TO DISCUSS TRAINING
18 WITH REGARD TO RUNNING THE OPERATION AND THE
19 TRAINING WITH REGARD TO SAFETY AND HEALTH. AND
20 IT'S REAL MUSHY.

21 AND FROM WHAT I UNDERSTAND, THEY'RE
22 ON THERE MANY MORE TIMES THAN WE ARE. SO WE WOULD
23 ENCOURAGE THEM TO SAY DUCK WHEN SOMETHING IS COMING

24 RATHER THAN CALL US AND SAY WE GOT A FATALITY OUT
25 HERE. COULD YOU COME OUT. I ENCOURAGE YOU FOR
189

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1 YOUR HEALTH AND SAFETY WORK. AND AGAIN, ONE OF THE
2 REASONS WE WERE HERE SO RAPIDLY IS THAT YOU DID
3 LIST OUR AGENCY BY NAME AND THE INJURY AND ILLNESS
4 PREVENTION PROGRAM EARLY ON IN YOUR PROPOSED
5 REGULATION, AND THAT GOT OUR ATTENTION. THANK YOU,
6 GENTLEMEN AND LADIES.

7 CHAIRMAN FRAZEE: SO DO YOU HAVE A SENSE
8 OF DIRECTION ON THE ITEM?

9 MS. RICE: WELL, I SENSE TWO DIRECTIONS
10 PERHAPS FROM THE COMMITTEE.

11 MEMBER JONES: IT'S PROBABLY ONE. GO
12 AHEAD. TELL ME WHAT IT IS.

13 MS. RICE: WELL, OUR PREFERENCE AS STAFF
14 IS TO MAINTAIN THE WORKER HEALTH AND SAFETY
15 STANDARD, WORK ON MODIFICATION TO THE LANGUAGE OF
16 THE STANDARD BASED ON THE COMMENTS RECEIVED, THAT
17 IT MAY BE TOO SPECIFIC, AND TO CONTINUE TO WORK
18 WITH CAL-OSHA TO ASSIST LEA'S IN DELINEATING THEIR
19 AREA OF RESPONSIBILITY AS OPPOSED TO CAL-OSHA'S,
20 AND TO PROVIDING APPROPRIATE TRAINING AND
21 ASSISTANCE TO THE LEA WITH CAL-OSHA'S ASSISTANCE.

22 I AGREE WITH THE GENTLEMAN FROM
23 CAL-OSHA THAT IF THE LEA IS OUT THERE MONTHLY OR
24 MORE OFTEN, WHAT A WONDERFUL OPPORTUNITY TO FIND

25 ISSUES AND GET THEM ADDRESSED MUCH MORE QUICKLY
 190

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1 THAN I UNDERSTAND CAL-OSHA WOULD BE ABLE TO DO. SO
2 IT SEEMS LIKE THE RESPONSIBLE THING TO DO.

3 AND AGAIN, WE'VE HAD THE STANDARD ON
4 THE BOOKS OR A SIMILAR STANDARD MANY, MANY YEARS
5 AND WOULD BE LOATH TO JUST DELETE IT BECAUSE OF
6 SOME CONCERNS THAT WE MIGHT BE ABLE TO ADDRESS, I
7 WOULD HOPE WE COULD ADDRESS, THROUGH APPROPRIATE
8 TRAINING.

9 MEMBER RELIS: AND, DOROTHY, IS DUST A
10 SUBSET OF THAT?

11 MS. RICE: DUST IS ANOTHER STANDARD.

12 MEMBER RELIS: ANOTHER STANDARD.

13 MS. RICE: WE WERE NOT SPECIFICALLY
14 REFERENCING DUST WHEN WE RAISED THIS ISSUE IS MY
15 UNDERSTANDING. WE DO HAVE A STANDARD IN THE DRAFT
16 REGULATIONS RELATIVE TO DUST.

17 MEMBER RELIS: OKAY. THAT'S ALL I CARE
18 ABOUT IS THAT WE GET TO SOME STANDARD, SO INSTEAD
19 OF -- THERE'S NO UNIFORM PROCEDURE AS FAR AS I CAN
20 TELL OR STANDARD FOR DUST WHEN WE TAKE UP OUR
21 PERMITS.

22 MS. RICE: BASED ON YOUR PRIOR REQUEST
23 THAT YOU MADE EARLIER THIS MONTH, I AM HAVING STAFF

24 RESEARCH THE VARIOUS STANDARDS THAT EXIST,
25 INCLUDING CAL-OSHA, AND PLEASED TO HAVE THAT
191

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1 REFERENCE. AND WE'LL BRING THAT BACK TO YOU. SO I
2 GUESS WE ARE SEEKING DIRECTION TO CONTINUE OUR WORK
3 WITH CAL-OSHA ON AN MOU AND TO REFINE THE STANDARD
4 SO THAT IT IS NOT SO SPECIFIC.

5 CHAIRMAN FRAZEE: OKAY. NOW, LET'S MOVE
6 ON TO ITEM 3, THE METHOD OF PLACEMENT WITHIN
7 TIERS.

8 MS. PAROLI: THE INFORMAL DRAFT REGULA-
9 TIONS PLACED OPERATIONS INTO THE TIERS BY THE TYPE
10 OF OPERATION BASED ON COMMENTS RECEIVED DURING THE
11 DEVELOPMENT OF LIMITED VOLUME OPERATION REGULA-
12 TIONS. DURING THE TRANSFER STATION WORKSHOPS,
13 STAFF RECEIVED FEEDBACK THAT OPERATIONS AND
14 FACILITIES BE PLACED INTO THE PERMIT TIERS BASED ON
15 AMOUNT OF WASTE INSTEAD OF BY VOLUME -- I'M
16 SORRY -- INSTEAD OF OPERATION TYPE.

17 COMMENTERS ALSO STATED THAT THERE
18 SHOULD NOT BE A DISTINCTION IN THE TIER PLACEMENT
19 BETWEEN TRANSFER AND PROCESSING ACTIVITIES SINCE
20 MOST TRANSFER OPERATIONS OR FACILITIES DO SOME
21 PROCESSING.

22 DURING THE INFORMAL PERIOD,
23 COMMENTERS PROVIDED VARIOUS RANGES FOR PLACING
24 OPERATIONS AND FACILITIES INTO THE TIER BASED ON

25 AMOUNT OF WASTE. MOST OF THE COMMENTERS FELT THAT
 192

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1 THE PROPOSED RANGES INCLUDED PLACING FACILITIES
2 THAT RECEIVED 60 CUBIC YARDS THROUGH A HUNDRED TONS
3 INTO THE REGISTRATION TIER AND FACILITIES THAT
4 RECEIVED OVER 100 TONS INTO THE FULL TIER.

5 THE MAJORITY OF COMMENTERS ALSO FELT
6 THAT STANDARDIZED PERMIT TIER WAS NOT APPROPRIATE
7 FOR SOLID WASTE TRANSFER AND PROCESSING OPERATIONS
8 OR FACILITIES.

9 STAFF RECOMMEND THAT THE OPERATIONS
10 BE PLACED INTO THE PERMIT TIER BASED ON TONNAGE.
11 STAFF BRINGS THIS FORWARD AS AN ISSUE FOR
12 DISCUSSION AND DIRECTION FROM THE COMMITTEE.

13 CHAIRMAN FRAZEE: DISCUSSION ON THE ITEM?
14 LET'S HEAR FROM THOSE IN THE AUDIENCE. MR.
15 WHITE, YOU'RE NEXT.

16 MR. WHITE: CHUCK WHITE WITH WASTE
17 MANAGEMENT. SEEMS LIKE WE'VE BEEN KIND OF ALL OVER
18 THE MAP ON THIS THING SINCE THE OCTOBER '95. AS I
19 RECALL, THE DISCUSSION WAS THAT WE HAD THE TWO-PART
20 TEST. YOU WERE GOING TO DO A SIMILAR DEAL WITH
21 RESPECT TO RESIDUALS AS YOU SLOT UP THE TIERS; THAT
22 IS, A LARGER PERCENTAGE OF RESIDUALS WOULD TRIGGER
23 YOU INTO A HIGHER TIER FOR REGULATION, ALTHOUGH

24 THAT WAS NEVER REALLY FORMALIZED.

25 THEN THAT WAS KIND OF TURNED UPSIDE
 193

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1 DOWN WHEN THE STAFF CAME UP WITH THEIR PROPOSAL
2 LAST SPRING WHERE IT WAS EXACTLY THE OPPOSITE
3 WHERE, IN FACT, THE MORE RESIDUALS THAT YOU
4 PROCESSED, THE LESS REGULATED YOU WERE BECAUSE THE
5 PROCESSING STATIONS GOT HIGHER DEGREE OF PERMITTING
6 THAN LOWER DEGREE. NOW WE'RE KIND OF LIKE BACK TO
7 A MIDDLE GROUND WHERE EVERYBODY IS KIND OF TREATED
8 ON THE SAME WAVELENGTH WITH RESPECT TO TOTAL AMOUNT
9 OF MATERIALS BEING PROCESSED ONCE YOU GOT PAST THE
10 TWO-PART TEST, AS I UNDERSTAND IT.

11 I THINK THIS MAY ULTIMATELY WORK,
12 ALTHOUGH I WOULD LIKE TO BE ABLE TO HAVE THE
13 OPPORTUNITY TO HAVE A LITTLE MORE TIME TO TAKE A
14 LOOK AND DISCUSS THESE ACTUAL THRESHOLD LEVELS
15 BEFORE YOU ACTUALLY BEGIN TO HARDEN INTO AN EXACT
16 POSITION.

17 AND I DON'T HAVE ANY PROBLEM WITH THE
18 ZERO TO 60 BECAUSE THERE OUGHT TO BE SOME ZERO OR
19 SOME DE MINIMUS LEVEL FOR THE NOTIFICATION TIER.
20 BUT THINKING BACK TO LARRY'S CHART, WHICH HE TALKED
21 ABOUT THE IDEA OF THE STEPWISE -- REMEMBER, THE
22 NOTIFICATION TIER WAS A VERY LOW LEVEL OF
23 REGISTRATION; WHEREAS, THE REGISTRATION WAS A VERY

24 HIGH LEVEL OF REGULATION, AND FULL PERMIT WAS EVEN
25 HIGHER. YOU CAN'T EVEN GET TO -- IF YOU GO FROM 60

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1 TO A HUNDRED AS BEING YOUR REGISTRATION, YOU CAN'T
2 EVEN GET TWO NOTIFICATION TIER FACILITIES INTO A
3 REGISTRATION BECAUSE TWO TIMES 60 WOULD BE 120.
4 YOU'D BE OUTSIDE IT.

5 SO IT SEEMS TO ME, GIVEN THE FACT
6 YOU'RE JUMPING FROM A LEVEL OF REGULATION THAT IS
7 VERY LOW TO ONE THAT LARRY AND OTHERS THINK IS VERY
8 HIGH AND I AGREE IS HIGH, THAT THAT 60 TO A HUNDRED
9 RANGE IS A PRETTY NARROW BAND OF SIZES FOR A MUCH
10 GREATER LEVEL OF REGULATION.

11 SO I'M THINKING THAT THERE MAY BE A
12 NEED TO CREATE A LITTLE BIT LARGER OPPORTUNITY,
13 GIVEN THE FACT, PARTICULARLY, THAT YOU'RE NOT EVEN
14 USING THE STANDARDIZED PERMIT TIER, JUST SIMPLY
15 GOING FROM NOTIFICATION TO REGISTRATION TO FULL. I
16 DON'T HAVE A NUMBER TO GIVE TO YOU, BUT I'D BE
17 THINKING THAT LIKE 60 TO 200 OR 250 OR SOMETHING
18 WOULD BE AN APPROPRIATE RANGE FOR A REGISTRATION
19 GIVEN THE FACT THAT IT IS A PERMIT AND IT DOES TAKE
20 INTO ACCOUNT THAT YOU'RE GIVING A SIGNIFICANT
21 HIGHER LEVEL OF REGULATION, AND IT IS MORE THAN
22 JUST SIMPLY TWO NOTIFICATION TIER FACILITIES BEING
23 ELIGIBLE FOR OPERATING IN THE REGISTRATION TIER.

24

SO I'D URGE YOU TO CONSIDER AT LEAST

25

A BAND THAT MAKES IT WORTHWHILE TO EVEN CREATE THAT

195

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1 REGISTRATION PERMIT TIER IN THE FIRST PLACE, BAND
2 OF OPERATIONS. THAT'S ALL I HAVE.

3 MEMBER RELIS: I THINK AT THIS POINT, IF I
4 UNDERSTAND THINGS RIGHT, STAFF'S REALLY SEEKING
5 DIRECTION BY EITHER TYPE OR TONNAGE. WE DON'T NEED
6 TO PICK THE NUMBERS TODAY. SO IF WE CAN GIVE THEM
7 THAT DIRECTION, THEN THAT'S PROBABLY ALL WE COULD
8 DO TODAY.

9 MR. BLOCK: THAT'S CORRECT. THE NUMBERS
10 THAT APPEAR ON THE BOTTOM OF PAGE 125 OF YOUR
11 PACKET, WHICH IS I THINK WHAT MR. WHITE WAS
12 REFERRING TO, ARE JUST A SUMMARY OF COMMENTS WE
13 RECEIVED AT THE WORKSHOPS, NOT ANY PARTICULAR
14 RANGES THAT WE WERE EITHER SUGGESTING OR --

15 MEMBER RELIS: HAVING SAID THAT --

16 MS. RICE: BASED ON THE ENORMITY OF
17 COMMENT RECEIVED, WE ARE RECOMMENDING A TONNAGE
18 APPROACH. AND IF PROVIDED THAT GENERAL DIRECTION,
19 WE WOULD WORK ON THE APPROPRIATE NUMBERS IN THE
20 NEXT DRAFT.

21 MR. BEST: YES. RICK BEST. GIVEN THE
22 STAFF'S RECOMMENDATION, WE WOULD CONCUR. WE WERE
23 CONCERNED ABOUT THE ORIGINAL DRAFT REGULATIONS THAT
24 HAVE BEEN ISSUED BECAUSE WE WERE CONCERNED

25

PRECISELY FOR THE FACT THAT A FACILITY THAT WAS A
196

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1 MATERIAL RECOVERY FACILITY, BUT ONLY OPERATING TEN
2 TONS PER DAY, LET'S SAY, WOULD BE IN THE FULL
3 PERMIT TIER; WHEREAS, A TRANSFER ONLY STATION THAT
4 PROCESSED A THOUSAND TONS PER DAY WOULD BE IN
5 REGISTRATION TIER.

6 AND SO WE FELT THERE WAS AN EXTREME
7 INEQUITY IN THAT. WE WOULD CERTAINLY CONCUR THAT
8 THE QUANTITY OF MATERIAL HANDLED SHOULD BE A
9 FACTOR, MAYBE A COMBINATION OF BOTH. I'M NOT SURE
10 THAT -- THAT MAY MAKE THINGS TOO COMPLICATED, BUT I
11 THINK DEFINITELY THE QUANTITY OF WASTE SHOULD BE
12 CONSIDERED AS PART OF THAT. AT THIS POINT WE'RE
13 NOT IN A POSITION OF PROVIDING A THRESHOLD.

14 I THINK OBVIOUSLY THE WASTE BOARD
15 STAFF WENT THROUGH AN ANALYSIS WHEN IT LOOKED AT
16 THE 10-PERCENT RESIDUE. I THINK LOOKING AT A
17 THRESHOLD FOR THE DIFFERENT TIERS, I THINK THERE
18 SHOULD BE AT LEAST SOME DISCUSSION OF LOOKING AT
19 ACTUAL DATA OF THE RELATIVE IMPACTS OF THESE
20 DIFFERENT TYPES OF FACILITIES TO THE EXTENT THAT
21 THAT INFORMATION IS AVAILABLE.

22 CHAIRMAN FRAZEE: LET'S HEAR FROM MR.
23 SWEETSER.

24 MR. SWEETSER: ONE MORE TIME. LARRY

25 SWEETSER, NORCAL WASTE SYSTEMS. I'LL MAKE IT
QUICK

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1 ALSO. I THINK YOU ARE GOING TO GET UNANIMOUS
2 AGREEMENT ON THIS ONE AS FAR AS SLOTTING, THAT
3 GOING BY THE TONNAGES WORKS A LOT BETTER. I THINK
4 IT'S CONSISTENT WITH THE IDEA OF ALL THE THINGS
5 WE'VE BEEN TALKING ABOUT EARLIER TODAY WITH THE 10
6 PERCENT AND EVERYTHING. I THINK IT EVEN GETS TO
7 THE HEART OF WHAT THE LEA'S WERE PROPOSING IN THEIR
8 ALTERNATIVE IS THAT THE MORE MATERIAL YOU'RE
9 HANDLING, THE MORE PROBLEM YOU ARE GOING TO HAVE.

10 IT'S ONE THING TO HAVE 10 TONS OF
11 PUTRESCIBLE WASTE SITTING THERE CAUSING A PROBLEM
12 VERSUS A THOUSAND TONS. AND SO BY KEEPING THE
13 TIERS CONSISTENT WITH THAT LEVEL OF WASTE, I THINK
14 YOU'RE GOING TO ACCOMMODATE A LOT OF THOSE PROBLEM
15 CUSTOMERS OUT THERE. I THINK ONE OF THE LEA'S
16 WANTS TO ADDRESS THAT.

17 CHAIRMAN FRAZEE: OKAY. MR. HANSON.

18 MR. HANSON: I REALLY LIKE THE PROPOSAL
19 THAT THE BOARD STAFF HAS COME UP WITH IN THE
AGENDA

20 ITEM. I WOULD PROPOSE THAT THE REGISTRATION TIER
21 BE SOMEWHAT AROUND 60 CUBIC YARDS TO A HUNDRED
22 TONS. I'VE HEARD THAT FROM SEVERAL LEA'S.

23 HOWEVER, I THINK THAT THE RESULTS OF THE SURVEY
MAY
24 INDICATE A NATURAL BREAK IN THE DATA WHICH MIGHT
BE
25 APPROPRIATE TO SET THAT. THAT WAY IT WON'T INTER-

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1 FERE WITH EXISTING OPERATIONS.

2 I THINK THAT A STANDARD CONVERSION
3 FACTOR IS NEEDED IF WE'RE GOING TO GO FROM VOLUME
4 TO WEIGHT, AND SO I THINK THAT SOME WORK SHOULD BE
5 DONE ON THAT AS TO COME UP WITH WHAT'S APPROPRIATE.

6 THE LAST ITEM IS I BELIEVE THAT A
7 REGISTRATION TIER NEEDS SOMETHING MORE THAN JUST
8 SOME SORT OF AN APPROVAL FROM THE LEA. THERE NEEDS
9 TO BE SOMETHING LIKE A PLAN OF OPERATION SIMILAR TO
10 WHAT WE HAVE IN THE SMALL VOLUME TRANSFER STATION
11 BECAUSE THERE IS QUITE A JUMP FROM NOTIFICATION TO
12 FULL PERMIT, WITH, I BELIEVE, VERY LITTLE
13 DISCRETION GIVEN TO THE LEA.

14 PERSONALLY I DON'T SEE MUCH
15 DIFFERENCE BETWEEN REGISTRATION AND NOTIFICATION,
16 BUT I DO BELIEVE THAT SOME SORT OF SMALL DOCUMENT
17 SIMILAR TO A -- THE EXISTING PLAN OF OPERATION
18 WOULD BE APPROPRIATE FOR A REGISTRATION TIER.

19 CHAIRMAN FRAZEE: MR. EDGAR.

20 MR. EDGAR: EVAN EDGAR REPRESENTING

THE

21 CALIFORNIA REFUSE REMOVAL COUNCIL. WE DO
SUPPORT

22 THE SLOTTING OF THE FACILITIES BY SIZE INSTEAD

OF

23 BY TYPE.

24 I ALSO WANTED TO POINT OUT THAT

THE

25 LEA'S GENERALLY WANT FACILITIES THAT HANDLE MSW

TO

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1 BE PLACED IN A FULL PERMIT THAN A STANDARDIZED
2 PERMIT. WHAT THEY'RE ALLUDING TO THERE IS THE
3 ABILITY TO UP TIER FOR FLEXIBILITY. AS AN EXAMPLE
4 FOR THE COMPOSTING, WHEN YOU'RE STUCK IN THE
5 STANDARDIZED PERMIT TIER, YOU HAVE VERY LITTLE
6 FLEXIBILITY. AT THE DISCRETION OF THE OPERATOR
7 SOMETIMES WE LIKE TO UP TIER INTO THE FULL PERMIT
8 TO GIVE US THE ABILITY TO HAVE SITE-SPECIFIC
9 CONDITIONS SO WE DON'T HAVE TO COME BACK IN FRONT
10 OF THE BOARD TO GET A NEW STANDARDIZED PERMIT EACH
11 AND EVERY TIME WE HAVE A MINOR CHANGE.

12 SO THAT'S A KEY POINT. I REALIZE
13 THERE MAY NOT BE ANY TRANSFER STATIONS WITHIN THE
14 STANDARDIZED PERMIT OR ANY MRF'S WITHIN A
15 STANDARDIZED PERMIT; BUT AS PART OF THE LANGUAGE,
16 WE WOULD LIKE TO LOOK AT THAT IN THE FUTURE TO HAVE
17 THE ABILITY TO UP TIER FOR FLEXIBILITY. THANK YOU.

18 MEMBER RELIS: MR. CHAIR, I CERTAINLY -- I
19 THINK I'M PERSUADED THAT WE SHOULD GO WITH THE
20 MEASURE INSTEAD OF THE TYPE. AND I GUESS THAT'S IN
21 TONS AND THEN THERE WOULD BE A CONVERSION FACTOR,
22 AND THAT WOULD BE CONSISTENT WITH OUR OTHER WAYS OF
23 MEASURE. SO IF THAT'S THE DIRECTION, I WOULD
24 RECOMMEND THAT WE GIVE THAT DIRECTION TO STAFF.

CHAIRMAN FRAZEE: WITH THE EXCEPTION,
200

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1 THOUGH, OF THE INITIAL.

2 MEMBER JONES: NOTIFICATION, IS THAT WHAT
3 YOU MEAN?

4 CHAIRMAN FRAZEE: YEAH. WITHOUT THAT ONE,
5 THAT ONE STAY AT YARDS FOR THE SIZE OF CONTAINER
6 PURPOSE, BUT THEN JUMPING TO A TON MEASURE FOR THE
7 REGISTRATION PERMIT.

8 MEMBER JONES: AND THEN WOULD IT, AS PART
9 OF THE PROCESS, WE'D LOOK AT -- YOU GUYS WOULD GET
10 COMMENT OR WHATEVER OR LOOK AT AVAILABLE DATA TO
11 FIGURE OUT WHERE THE BREAKS ARE IN PLAN OF
12 OPERATIONS, THOSE TYPES OF THINGS. YEAH, I LIKE
13 THIS. I MEAN THIS IS FINE WITH ME. I THINK IT'S
14 GOOD WORK.

15 CHAIRMAN FRAZEE: OKAY. DO YOU HAVE
16 ENOUGH ON THAT? NOW LET'S GO TO ADDITIONAL
17 EXCLUSIONS.

18 MS. REHBERG: STAFF PROPOSES TO ADD
19 ADDITIONAL EXCLUSIONS TO THE EXISTING REGULATIONS
20 FOR COLLECTION YARD OPERATIONS, RENDERING PLANTS,
21 IGLOOS, RECYCLING CONTAINERS, SCRAP METAL RECYCLERS
22 AND DEALERS, AND AUTO DISMANTLERS, AND BASED ON
23 COMMENTS RECEIVED DURING THE INFORMAL COMMENT
24 PERIOD. STAFF BRINGS THIS FORWARD AS AN ISSUE FOR

25 DISCUSSION AND DIRECTION FROM THE COMMITTEE.
 201

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1 COMMENTS RECEIVED DURING THE WORKSHOPS HAVE BEEN IN
2 SUPPORT OF ADDING SOME ADDITIONAL EXCLUSIONS.

3 MEMBER RELIS: WHAT HAVE THOSE BEEN?
4 THOSE THAT ARE LISTED.

5 MS. REHBERG: IN WRITTEN FORM.

6 CHAIRMAN FRAZEE: THE WASTE COLLECTION
7 YARD OPERATIONS, CAN YOU GIVE US AN IDEA OF WHAT
8 THAT ENCOMPASSES?

9 MS. HAPBERSBERGER: THAT WOULD BE
10 COLLECTION TRUCKS AND WHERE THEY PARK THEIR TRUCKS.

11 CHAIRMAN FRAZEE: DOES THAT GET TO THE
12 SEALED CONTAINER ISSUE?

13 MS. HAPBERSBERGER: NO.

14 MEMBER RELIS: THAT'S LIKE A SERVICE YARD
15 OR A STORAGE?

16 MS. HAPBERSBERGER: LIKE A SERVICE
17 MAINTENANCE YARD.

18 MEMBER RELIS: MAYBE THAT TERM, I FEEL
19 UNCOMFORTABLE WITH THAT TERM, "WASTE RECOLLECTION
20 YARD OPERATIONS."

21 MS. HAPBERSBERGER: WE CAN LOOK AT THAT.

22 CHAIRMAN FRAZEE: DO YOU WISH TO COMMENT
23 ON THAT, MR. SWEETSER?

24 MR. SWEETSER: PARTICULARLY ON THAT NOTE.

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1 THAT IS IS PART OF WHAT'S ALREADY IN THE STATUTE IS
2 THERE'S MANY OCCASIONS WHEN A HAULER AT THE END OF
3 A DAY, PARTICULARLY A FRIDAY, WILL HAVE A FULL LOAD
4 IN THEIR TRUCK AND WILL NEED TO STORE IT OVER A
5 WEEKEND FOR DELIVERY ON MONDAY MORNING. AND THAT'S
6 A LOT OF WHAT THAT ONE IS TRYING ADDRESS, NOT SO
7 MUCH THE PROCESSING OR STRICT TRANSFER. IT IS
8 SIMILAR TO THE SEALED, BUT IT'S NOT NECESSARILY A
9 SEALED CONTAINER. IT CAN BE AN OPEN BOX WITH A
10 COVER OR EVEN A GARBAGE TRUCK.

11 MEMBER RELIS: ISN'T IT BASICALLY WHERE
12 YOU PARK YOUR TRUCKS? I MEAN THE FACT THAT THEY'RE
13 FULL OVER THE WEEKEND IS ONE ISSUE, BUT ISN'T THAT
14 WHAT YOU JUST DESCRIBED? THEY WOULD BE EXCLUDED,
15 WHICH WOULD BE WHERE THEY PARK THEIR EQUIPMENT.

16 MR. BLOCK: ACTUALLY THIS PARTICULAR
17 EXCLUSION IS A LITTLE DIFFERENT THAN SOME OF THE
18 OTHER ONES WE'VE GOT, AND THIS IS REALLY INTENDED
19 TO PUT INTO REGULATIONS THE EXISTING STATUTORY
20 EXCLUSION THAT ACTUALLY REQUIRES THE BOARD TO DO
21 REGULATIONS THAT WE'VE NEVER DONE OVER THE YEARS
22 THAT ALLOWS THAT EXCLUSION FROM THE DEFINITION OF
23 TRANSFER PROCESSING STATION BASICALLY UP TO 90
24 CUBIC YARDS IN LESS THAN 72-HOUR PERIOD.

IT WAS ORIGINALLY DESIGNED FOR THE
203

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1 TRUCKS TO GET LEFT OVER A LONG WEEKEND, LET'S SAY,
2 AT A HAULING YARD, AND SO WE'RE JUST TRYING TO GIVE
3 THAT ONE SOME MORE DEFINITION THAT'S IN THE
4 STATUTE. AND SO IN A SENSE, IT'S A LITTLE
5 DIFFERENT THAN SOME OF THE OTHER ADDITIONAL
6 EXCLUSIONS THAT WE'RE TALKING ABOUT.

7 THE ACTUAL CITATION ON THAT EXCLUSION
8 IS PUBLIC RESOURCES CODE SECTION 40200(B)(3), WHICH
9 EXCLUDES FROM TRANSFER PROCESSING STATION THE
10 OPERATIONS, PREMISES OF A DULY LICENSED SOLID WASTE
11 HANDLING OPERATOR WHO RECEIVES, STORES, TRANSFERS
12 OR OTHERWISE PROCESSES WASTE AS AN ACTIVITY
13 INCIDENTAL TO THE CONDUCT OF A REFUSE COLLECTION
14 AND DISPOSAL BUSINESS. IN ACCORDANCE WITH
15 REGULATIONS ADOPTED PURSUANT TO SECTION 43309, AND
16 WE'VE NEVER ACTUALLY ADOPTED THOSE REGULATIONS.
17 THIS PROPOSED REGULATION WOULD, IN FACT, BE THE
18 REGULATION TO IMPLEMENT THAT STATUTE.

19 MR. SWEETSER: WE ASSUME THAT TO BE NO
20 MORE, NO LESS THAN JUST THAT ACTIVITY.

21 MEMBER RELIS: FURTHER CLARIFICATION?
22 DOES EVERYONE KNOW WHAT IGLOOS ARE? I MEAN I THINK
23 I DO, BUT IT'S NOT DEFINED WHAT AN IGLOO IS. AN

24 IGLOO FOR RECYCLABLES IS WHAT I ASSUME.

25 MS. RICE: I ASSUME FOR EACH OF THESE
204

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1 EXCLUSIONS, IF THE COMMITTEE WERE AGREEABLE TO
2 INCLUDING THEM, WE WOULD NEED A DEFINITION IN THE
3 DRAFT REGULATIONS FOR EACH TERM.

4 MEMBER RELIS: DOES IGLOOS, WOULD THAT
5 INCLUDE, FOR INSTANCE, THE REVERSE VENDING MACHINES
6 TOO AND THAT? I MEAN YOU'VE GOT THE TRAILERS THAT
7 ARE PLACED LIKE THE 2020 TRAILERS YOU SEE. SO I
8 RAISE THAT BECAUSE IT SEEMS LIKE YOU'VE DESCRIBED
9 ONE, THE SHAPE, NOT A FUNCTION.

10 MR. BLOCK: IN A SENSE WHAT WE'RE TRYING
11 TO DO WITH THESE ADDITIONAL EXCLUSIONS IS GET AT
12 ACTIVITIES THAT WE ARE CONFIDENT WOULD NEVER FAIL
13 THE TWO-PART TEST; BUT RATHER THAN SET THE
14 REGULATIONS UP IN A SITUATION WHERE THERE HAS TO BE
15 A SEPARATE ANALYSIS DONE, THAT IF IT'S THOSE TYPE
16 OF OPERATIONS, AND A NUMBER OF THESE ARE ALREADY
17 DEFINED, FOR INSTANCE, IN DOC'S, DEPARTMENT OF
18 CONSERVATION'S REGULATIONS, THAT WE WOULD JUST
19 INCLUDE THE SAME EXCLUSIONS IN OUR REGULATIONS.
20 BASICALLY IT'S JUST A BRIGHTER LINE AND NOT GET
21 INTO THAT ISSUE.

22 BUT THAT'S WHY WE WANT TO BRING THAT
23 FORWARD BECAUSE THERE'S A -- DEPENDING ON SOME OF

24 THESE EXCLUSIONS, WE THOUGHT THAT YOU MIGHT HAVE
25 DIFFERENT OPINIONS ONE WAY OR THE OTHER ON SOME OF
 205

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1 THESE.

2 MEMBER RELIS: OKAY. JUST WITHOUT -- YOU
3 KNOW, I DON'T WANT TO SPEND A LOT OF TIME ON THIS
4 NOW. BUT SAY YOU HAVE SCRAP METAL RECYCLERS AND
5 DEALERS. SCRAP METAL RECYCLERS OFTEN TAKE OTHER
6 THINGS. I KNOW SOME IN SANTA BARBARA, THEY TAKE
7 PAPER, THEY TAKE GLASS. SO IS THERE SOME
8 SPECIFIC -- THE WORDS ALL BECOME VERY IMPORTANT.
9 AND SO I RAISE THAT. I DO NOT ASK YOU TO ANSWER.

10 MEMBER JONES: I RAISE IT. MR. CHAIRMAN,
11 I AGREE WITH MR. RELIS BECAUSE, YOU KNOW, IF SCRAP
12 METAL RECYCLERS ONLY TAKE IN SCRAP METAL, THAT'S
13 ONE THING. BUT IF SCRAP METAL RECYCLERS OPERATE
14 OUTSIDE OF WHAT EVERYBODY ELSE IN THE UNIVERSE HAS
15 TO OPERATE UNDER AND CAN OPEN UP FULL RECYCLING
16 CENTERS OR FULL TRANSFER STATIONS OUTSIDE OF THE
17 RULES, IF THEY'RE EXCLUDED, THE TWO-PART TEST
18 DOESN'T EVEN COME INTO -- IT'S NOT EVEN AN ISSUE.

19 SO I THINK THAT SCRAP METAL RECYCLERS
20 EITHER HAVE TO BE DEFINED AS SOLELY RECYCLING SCRAP
21 METAL OR HAVE TO BE PULLED OUT OF THAT DEFINITION.
22 LEAVE SCRAP METAL DEALERS IN, BUT JUST SAY SCRAP
23 METAL RECYCLERS, IF THEY WANT TO GROW THEIR

24 BUSINESS, WE CAN'T EXCLUDE THEM. WE CAN'T SAY,
25 HERE, YOU LIVE OUTSIDE OF WHAT EVERYBODY ELSE IN
206

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1 THE UNIVERSE LIVES BY. SO I AGREE WITH MR. RELIS
2 ON THAT.

3 CHAIRMAN FRAZEE: OKAY. YES.

4 MR. SWEETSER: IF I MAY ADD. LARRY
5 SWEETSER AGAIN. I'M IN FULL AGREEMENT WITH MR.
6 JONES AND MR. RELIS ON THAT ISSUE. AND I THINK
7 WE'RE GOING TO HAVE A DIFFICULT TIME TRYING TO
8 EXACTLY DEFINE SOME OF THESE ENTITIES. WE ALL
9 AGREE WITH THE INTENT TO TRY TO KEEP SOME OF THEM
10 OUT OF THERE; BUT UNTIL WE HAVE THE FUNDAMENTAL
11 UNDERSTANDING OF THE 10 PERCENT AND SOURCE
12 SEPARATED ISSUES, IT'S GOING TO BE VERY DIFFICULT
13 FOR THOSE THAT ARE NOT EXPLICITLY IN STATUTE NOW TO
14 TRY AND PUT THEM IN HERE YET.

15 I'M NOT SAYING THEY SHOULDN'T BE IN
16 THERE. LET'S GET THOSE DEFINITIONS SET, AND THEN
17 WE'LL BETTER UNDERSTAND WHERE THESE FACILITIES WILL
18 LIE.

19 CHAIRMAN FRAZEE: MR. HANSON.

20 MR. HANSON: ALTHOUGH IT'S CLEAR THAT THE
21 ALTERNATIVE PLAN IS A HOLISTIC APPROACH TO DEAD, I
22 STILL THINK THAT THERE'S STILL A FEW IDEAS ABOUT
23 IT. AND I THINK THAT ONE OF THE STRONGEST CRITERIA
24 THAT IT WAS ALL BASED ON A CONCERN OF PUBLIC

25

HEALTH, AND WE DIDN'T HAVE TO MAKE UP REASONS OF
207

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1 WHY WE WERE GOING TO EXCLUDE ANYTHING.

2 AND I THINK THAT IF YOU COME UP WITH
3 SOME SORT OF A DEFINITION OR A CRITERIA ON WHY YOU
4 ARE GOING TO EXCLUDE SOMETHING, AND IF YOU WERE TO
5 BASE IT ON A CONCERN OF PUBLIC HEALTH, AS INDICATED
6 IN THE ALTERNATIVE PLAN, THEN I THINK YOU WILL BE
7 ON FIRMER GROUND, SUCH AS THE PROBABILITY OF
8 RECEIVING WASTE THAT WOULD CONTAIN CONSTITUENTS OF
9 A PUBLIC HEALTH CONCERN. AND THEN THE ABSOLUTE
10 QUANTITY OF TRASH ENTERING AN OPERATION OR FACILITY
11 DURING A SPECIFIED TIME PERIOD.

12 OF COURSE, ALL THIS IS TAKEN INTO
13 CONSIDERATION AFTER YOU'VE MADE THE DETERMINATION
14 OF WHAT'S IN AND WHAT'S OUT. AND THE DEFINITION OF
15 CONSTITUENTS OF PUBLIC HEALTH CONCERN COULD BE
16 PUTRESCIBLES, HAZARDOUS WASTE, MEDICAL WASTE,
17 SAFETY WASTE, MATERIALS IF STORED IMPROPERLY THAT
18 COULD PROVIDE A RODENT HABORAGE AND/OR A VERMIN
19 BREEDING ENVIRONMENT. AND THEN YOU CAN GIVE
20 EXAMPLES THAT WOULD BE OF EACH ONE OF THOSE TWO
21 MAIN CRITERIA, SUCH AS BUY-BACKS, BECAUSE NOBODY IS
22 GOING TO BUY TRASH, DROP-OFFS BECAUSE THERE ISN'T
23 VERY MUCH TRASH THERE TO BEGIN WITH, AND ALL SORTS
24 OF REASONS.

25

AT LEAST YOU WOULD HAVE A BASIC
208

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1 CRITERIA THAT YOU COULD APPLY TO THOSE THINGS THAT
2 PERHAPS YOU DON'T COME OUT AND EXPLICITLY STATE
3 THAT ARE EXCLUDED THAT MAY POP UP SOMEWHERE AND YOU
4 DON'T HAVE TO ADD IT TO REGULATIONS IN THE FUTURE.

5 MEMBER RELIS: MR. CHAIR, I THINK MR.
6 HANSON MAKES A GREAT POINT HERE. I THINK IT DOES
7 CLARIFY THE BASIC REASON WHY WE'RE MAKING
8 EXCLUSIONS, AND WE HAVEN'T DONE THAT EXPLICITLY.
9 AND THE PUBLIC HEALTH REASONS ARE OBVIOUSLY
10 PARAMOUNT. AND IF WE JUST STATE THAT, THEN I THINK
11 ALL OF WHAT WE'RE TRYING TO DO HERE MAKES SENSE.

12 CHAIRMAN FRAZEE: FALLS IN PLACE. MR.
13 EDGAR.

14 MR. EDGAR: THANK YOU, CHAIRMAN AND BOARD
15 MEMBERS. EVAN EDGAR ON BEHALF OF THE CALIFORNIA
16 REFUSE REMOVAL COUNCIL. WE CANNOT SUPPORT ANY
17 BLANKET EXCLUSIONS FOR THE SAME REASONS THAT THAT
18 WAS MENTIONED ALREADY.

19 ON BEHALF OF WHAT MR. BLOCK POINTED
20 OUT, THE REASON WHY THE WASTE COLLECTION YARDS ARE
21 GOING TO BE EXCLUDED BECAUSE THERE'S NOT A BLANKET
22 EXCLUSION WITHIN PRC CODE 43009, THAT REGULATIONS
23 SHALL PROHIBIT THE STORING OF MORE THAN 90 CUBIC

24 YARDS OF WASTE IN COVERED CONTAINERS DURING ANY
25 72-HOUR PERIOD. SO THAT'S WHAT'S BEING REFERRED TO
 209

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1 THAT NEEDS TO BE PLACED IN THE REGULATIONS.

2 SO I BELIEVE THAT SHOULD BE PLACED IN
3 REGULATIONS, BUT OTHER BLANKET EXCLUSIONS WE WOULD
4 NOT SUPPORT. THANK YOU.

5 CHAIRMAN FRAZEE: MR. EDGAR, WHAT ABOUT
6 THE APPROACH THAT MR. HANSON SUGGESTED OF APPLYING
7 THE HEALTH AND SAFETY TEST AND GETTING TO
8 EXCLUSIONS THAT WAY?

9 MR. EDGAR: YEAH. USING THE TWO-PART TEST
10 AND USING THE PUBLIC HEALTH AND SAFETY WOULD BE THE
11 WAY TO GO, CORRECT.

12 CHAIRMAN FRAZEE: ANYTHING ELSE ON THE
13 ITEM?

14 MR. BLOCK: I NEED TO ACTUALLY PERHAPS, I
15 THINK, ASK FOR A LITTLE BIT OF CLARIFICATION
16 BECAUSE THE ITEM WAS RAISED AS -- FOR A REASON IT
17 WAS LABELED ADDITIONAL EXCLUSIONS. WHEN THE BOARD
18 LOOKED AT THIS ISSUE BACK IN 1995, THEY IDENTIFIED
19 A NUMBER OF OPERATIONS BY NAME THAT WOULD BE IN A
20 SENSE EXCLUDED AND THE -- ALONG THE SAME MANNER.
21 FOR INSTANCE, AND ACTUALLY I BELIEVE THIS IS ON
22 PAGE 130 OF YOUR PACKET. IT'S ATTACHMENT NO. 1 --
23 MANUFACTURERS, DEMANUFACTURERS, WIRE CHOPPERS, AUTO
24 DISMANTLERS, BUY-BACK CENTERS.

25

AND SO WHAT WE HAD BROUGHT FORTH WERE
210

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1 SOME ADDITIONAL ITEMS TO ADD TO THAT LIST. BASED
2 ON THE COMMENTS YOU ARE MAKING, I GUESS THE
3 QUESTION WE WOULD HAVE IS ARE WE GOING TO CONTINUE
4 FORWARD WITH THE ALREADY IDENTIFIED EXCLUSIONS FROM
5 OCTOBER '95, BUT NOT ADD THESE ADDITIONAL ONES, OR
6 ARE THE COMMENTS BROADER THAN THAT?

7 MEMBER RELIS: WELL, ACTUALLY NOW THAT YOU
8 BRING THIS UP, THAT'S WHAT I REMEMBERED. WE SPENT
9 A LOT OF TIME ON -- IN FACT, I THINK THERE WERE
10 MAYBE WHOLE HEARINGS ON EACH OF THESE EXCLUSIONS OR
11 OUTSIDE THE REGULATORY TIERS, AS WE PUT IT. AND
12 ARE YOU SAYING THAT, THEN, THE ADDITIONAL LIST IS
13 THE RESULT OF FURTHER INPUT, FURTHER THOUGHTS FROM
14 STAFF?

15 MR. BLOCK: FURTHER COMMENTS FROM THE
16 WORKSHOPS.

17 MEMBER RELIS: FURTHER COMMENTS WHERE
18 THERE'S A BELIEF THAT THERE'S A NEED FOR ADDITIONAL
19 LISTING?

20 MR. BLOCK: THAT'S CORRECT.

21 MEMBER RELIS: OKAY. WELL, I THINK IT ALL
22 COMES BACK SUBJECT TO THE DEFINITIONS OF THE --
23 WHAT'S IN, WHAT'S OUT. SO I WOULD SAY I THINK IT'S
24 A WORTHWHILE IDEA, BUT I WOULD RESERVE JUDGMENT,

25

FINAL JUDGMENT, UNTIL WE HAVE THE OTHER FACTORS

211

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1 BEFORE US.

2 MS. RICE: SO WE WILL BRING IN THE NEXT
3 DRAFT PARTICULAR LANGUAGE FOR EXCLUSIONS AND THE
4 DEFINITIONS FOR THOSE ACTIVITIES FOR YOUR
5 CONSIDERATION.

6 MEMBER RELIS: AND THE HEALTH AND THE --
7 YEAH, BUT WE'RE NOT THROWING OUT THE OTHER LIST
8 WHICH WE LABORED OVER EXTENSIVELY.

9 MEMBER JONES: THEN WE'RE GOING TO TALK --
10 I MEAN YOU'RE GOING TO INCLUDE THAT SCRAP METAL
11 RECYCLER ISSUES THAT WE TALKED ABOUT IN THAT
12 DEFINITION, RIGHT?

13 CHAIRMAN FRAZEE: OKAY. WE EXHAUSTED THAT
14 ITEM.

15 THEN ITEM 5, OPERATORS OBTAINING THE
16 APPROPRIATE TIERED PERMIT.

17 MS. PAROLI: THIS INFORMAL DRAFT REGULA-
18 TIONS INCLUDED A PROVISION THAT OPERATORS ALREADY
19 POSSESSING A VALID PERMIT OBTAIN THE APPROPRIATE
20 TIER PERMIT AT THE NEXT PERMIT REVIEW OR REVISION.
21 THE PERMITTED AMOUNT AND NOT THE ACTUAL TONNAGE
22 WOULD DETERMINE THE APPROPRIATE TIER.

23 FOR THE PURPOSES OF OUR DISCUSSION

24 HERE, AS AN EXAMPLE ONLY, ANYTHING ABOVE A HUNDRED
25 TONS PER DAY WILL REQUIRE A FULL PERMIT AND LESS
 212

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1 THAN A HUNDRED TONS PER DAY WOULD REQUIRE A
2 REGISTRATION.

3 AN OPERATOR POSSESSING A FULL PERMIT
4 THAT ALLOWS A MAXIMUM DAILY THROUGHPUT OF 150 TONS
5 PER DAY, BUT CURRENTLY IS RECEIVING ONLY 50 TONS
6 PER DAY BECAUSE WASTE FLOW FROM THE SERVICE AREA IS
7 SLOW FOR SOME OR ANY REASON, SUCH AN OPERATOR WOULD
8 STILL BE ELIGIBLE FOR THE FULL PERMIT. AN OPERATOR
9 WHO POSSESSES A FULL PERMIT AT A LEVEL OF A MAXIMUM
10 DAILY THROUGHPUT OF 50 TONS WOULD BE REQUIRED TO
11 GET A REGISTRATION PERMIT.

12 AGAIN, FOR THOSE OPERATORS THAT
13 ALREADY HAVE A FULL PERMIT, THE APPROPRIATE TIER
14 WOULD BE BASED ON WHAT THE PERMIT ALREADY ALLOWS,
15 NOT WHAT THE FACILITY ACTUALLY RECEIVES IF IT'S
16 LESS THAN THE PERMITTED AMOUNT.

17 FOR NEW FACILITIES, THE LEVEL OF
18 OPERATION THAT THE OPERATOR SUBMITS AN APPLICATION
19 FOR WOULD DETERMINE THE TIER.

20 DURING THE WORKSHOP, IT WAS SUGGESTED
21 THAT OPERATORS SHOULD HAVE THE CHOICE TO RETAIN THE
22 FULL PERMIT FOR THE FOLLOWING REASONS: A FULL
23 PERMIT ALLOWS MORE FLEXIBILITY AND PROVIDES A
24 MARKED ADVANTAGE OVER THE LOWER TIERED PERMITTED

25

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1 PUBLIC COMMENTS ON PLANNED OPERATIONAL EXPANSIONS;
2 A FULL PERMIT PROCESS WAS EXPENSIVE, AND SOME
3 OPERATORS BELIEVE THAT THEY SHOULD BE ABLE TO
4 RETAIN THE FULL PERMIT.

5 STAFF BELIEVE THAT REQUIRING THE
6 APPROPRIATE TIER WILL OFFER THE FOLLOWING
7 ADVANTAGES: IT WOULD HELP MAINTAIN THE INTENT OF
8 THE TIER FRAMEWORK; IT WOULD REDUCE THE CONCERNS
9 REGARDING INCONSISTENCIES AND STATEWIDE UNIFORMITY
10 FOR THE PLACEMENT OF OPERATIONS INTO THE TIERS; THE
11 OPERATOR WILL NOT -- THE OPERATOR WILL KNOW WHAT
12 PERMIT TIER AND REQUIREMENTS WOULD BE REQUIRED OF
13 THEM; THE APPROPRIATE TIER PLACEMENT REDUCES
14 UNNECESSARY OVERSIGHT AND STRINGENT PERMIT
15 APPLICATION AND REVIEW PROCEDURES; THE REQUIREMENT
16 WOULD NOT ADD ANY ADDITIONAL COST TO THE OPERATOR,
17 AND AT THE SAME TIME ALLOW THE OPERATOR TO BE
18 PLACED INTO A TIER BASED ON THEIR APPLICATION; FULL
19 PERMITS WOULD REQUIRE MONTHLY INSPECTION WHICH MAY
20 ADD TO THE OPERATOR'S COST.

21 SINCE OPERATIONS WILL BE PLACED INTO
22 THE PERMIT TIERS BY PERMITTED TONNAGE, NOT
23 ACTIVITY, STAFF RECOMMEND THAT THE OPERATIONS
24 SHOULD OBTAIN THE APPROPRIATE TIER AT THE NEXT

25 PERMIT REVIEW OR REVISION. STAFF BRINGS THIS
 214

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1 FORWARD AS AN ISSUE FOR DISCUSSION AND DIRECTION
2 FROM THE COMMITTEE.

3 CHAIRMAN FRAZEE: LET'S TAKE A FIVE-MINUTE
4 BREAK HERE.

5 (RECESS TAKEN.)

6 CHAIRMAN FRAZEE: CALL THE MEETING BACK TO
7 ORDER THEN. WHEN WE BROKE, WE WERE DISCUSSING THE
8 ITEM THE METHOD OF PLACEMENT WITHIN THE TIERS, AND
9 WE HAD HAD THE STAFF REPORT ON THAT. AND IT'S
10 BEFORE THE COMMITTEE FOR DISCUSSION OR FOR
11 ADDITIONAL COMMENT.

12 MEMBER JONES: NO SPEAKERS? NOBODY IS
13 SPEAKING? WAIT. HE WAS SLEEPING IN THE BACK OF
14 THE ROOM, I GUESS. ANYBODY ELSE ASLEEP BACK
15 THERE?

16 MR. SWEETSER: LARRY SWEETSER I HOPE FOR
17 ONE LAST TIME TODAY. AS FAR AS OBTAINING THE
18 REGULATORY TIERS, I THINK WE'RE ALL LOOKING FOR THE
19 SAME FLEXIBILITY THAT STAFF'S BEEN PROPOSING,
20 ESPECIALLY WHEN YOU'VE GONE TO THAT EFFORT. MANY
21 OF US, EVEN THOUGH -- IF WE ARE ABLE TO GO INTO A
22 LOWER TIER, WE'LL TAKE THE ADVANTAGE OF DOING THAT,
23 BUT THERE MAY BE OCCASIONS WE WANT UPPER TIERS,
24 ESPECIALLY, LIKE IT OR NOT, THERE'S MANY A

25

CONTENTIOUS TIME WHEN WE HAVE TO -- WE'RE IN
215

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1 ARGUMENTS OR DISCUSSIONS WITH LEA'S TRYING TO
2 RESOLVE AN ISSUE. AND THE BEST WAY TO RESOLVE THAT
3 SOMETIMES IS TO PUT IT AS A TERM AND CONDITION
4 WITHIN THE PERMIT. AND THAT GIVES BOTH SIDES
5 ASSURETY OF WHAT THE UNDERSTANDING IS. AND BY
6 DOING THAT, ONLY THE FULL TIER ALLOWS THAT
7 FLEXIBILITY.

8 SOMETIMES, LIKE IT OR NOT, THAT MAY
9 BE THE BEST WAY TO ADDRESS IT, AND THAT'S WHY WE
10 THINK IT WOULD BE BEST FOR FLEXIBILITY PURPOSES TO
11 STAY WITHIN THE -- BECAUSE IF YOU DROP US DOWN BY
12 FORCE, WE START ARGUING AGAIN OVER DEFINITIONS. SO
13 I THINK THE SHORT ANSWER IS WE'D LIKE TO MAINTAIN
14 THAT FLEXIBILITY.

15 CHAIRMAN FRAZEE: WE'RE DEALING WITH TWO
16 ISSUES HERE, AS I SEE IT. ONE IS THE ABILITY TO --
17 FOR AN OPERATOR TO, AT THE TIME OF RENEWAL OF THE
18 PERMIT, TO RETAIN THE HIGHER PERMIT ALTHOUGH THEY
19 ARE NOT OPERATING WITHIN THAT MODE, AND THE OTHER
20 ONE IS A NEWLY PERMITTED FACILITY, SHOULD THAT
21 FACILITY BE ALLOWED TO GO ABOVE WHAT THEY'RE ACTUAL
22 THROUGHPUT IS.

23 MS. RICE: CORRECT.

24 CHAIRMAN FRAZEE: AND THE PROPOSAL AS

25 WRITTEN NOW WOULD NOT ALLOW THAT IN EITHER CASE.
 216

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1 WELL, IN THE CASE OF DOWNGRADING A PERMIT AT THE
2 TIME OF REVIEW OR RENEWAL.

3 MS. PAROLI: WHAT STAFF IS RECOMMENDING IS
4 THAT THEY WOULD HAVE TO DOWN TIER, AND FOR NEW
5 FACILITIES THEY COULD NOT UP TIER. THEY WOULD GET
6 WHATEVER THEIR APPLICATION WAS REQUESTING FOR.

7 CHAIRMAN FRAZEE: I THINK MR. SWEETSER IS
8 SAYING SOMETHING ELSE. HE'S SAYING THE OPPOSITE OF
9 THAT.

10 MR. SWEETSER: IN BOTH CASES.

11 MEMBER JONES: AND I -- IN MY BRIEFING I
12 BROUGHT THE SAME ISSUES UP. SOMEBODY GETS A FULL
13 SOLID WASTE FACILITY PERMIT, GOES THROUGH AN EIR,
14 GOES THROUGH THESE THINGS, THAT PERSON HAS GOT A
15 RIGHT TO PROTECT THAT INVESTMENT AND TO GROW THEIR
16 BUSINESS. I MEAN AS LONG AS THEY'RE PAYING THE
17 FEES FOR INSPECTIONS, AS LONG AS THEY'RE TAKING
18 CARE OF THEIR ISSUES AND THEY'RE WILLING TO GO
19 THROUGH, HOW WE CAN COME IN AS A STATE AND SAY YOU
20 DON'T HAVE A WASTESTREAM TO SUPPORT THIS, WE'RE
21 GOING TO DOWN TIER YOU, I THINK IS VERY DANGEROUS,
22 A VERY DANGEROUS INTRUSION.

23 I MEAN I THINK THAT IF YOUR FACILITY
24 IS BUILT AND CAN HANDLE A CERTAIN AMOUNT OF WASTE

25 AND YOU USED TO HAVE IT OR YOU WANT TO HAVE IT,
 217

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1 THERE HAS TO BE SOME FLEXIBILITY THERE. WHAT YOU
2 ARE SAYING IS THEY MUST GO DOWN INTO THAT
3 APPROPRIATE TIER. AND, YOU KNOW, WHO IS GOING TO
4 INCUR THOSE COSTS IF THEY CAN GROW THEIR BUSINESS
5 AND GO UP TO A HIGHER TIER? WE'RE NOT. WE'RE
6 GOING TO ASK THE OPERATOR TO. I HAVE A HARD TIME
7 UNDERSTANDING THAT.

8 MEMBER RELIS: WHAT'S THE HARM?

9 BOARD MEMBER JONES: WHAT IS THE HARM?

10 MR. WHITE: CHUCK WHITE WITH WASTE
11 MANAGEMENT. I WAS GOING TO SAY WHAT'S THE HARM.
12 WE WOULD BE PRO CHOICE ON THIS ISSUE. WE ACTUALLY
13 HAVE FACILITIES THAT MIGHT BE EXEMPT UNDER THE
14 TWO-PART TEST FROM HAVING TO GET ANY PERMIT AT ALL
15 AND WE ALREADY HAVE A SOLID WASTE PERMIT FOR THEM,
16 AND WE'D LIKE TO BE ABLE TO RETAIN THE SOLID WASTE
17 PERMIT, EVEN THOUGH IT'S TOTALLY EXEMPT FROM HAVING
18 TO BE WITHIN THE BOARD'S EXCLUDED REGULATORY
19 STRUCTURE. SO WE'D LIKE TO BE ABLE TO HAVE THAT
20 FLEXIBILITY, NOT ONLY FOR EXISTING PERMITTED
21 FACILITIES, BUT FOR NEW PERMITTED FACILITIES AS
22 WELL.

23 CHAIRMAN FRAZEE: OKAY. I THINK I SEE

24 CONSENSUS ON THE COMMITTEE TO RETAIN THE FLEXI-
25 BILITY IN THIS ISSUE. OKAY. NOW WHAT ELSE?

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1 MS. RICE: I BELIEVE THAT CONCLUDES OUR
2 ISSUES.

3 MEMBER JONES: I JUST HAD ONE QUESTION.
4 THE SECOND ITEM WHERE WE TALKED ABOUT SEPARATED FOR
5 REUSE AND SOURCE SEPARATED, WHAT DIRECTION DOES
6 STAFF FEEL THAT THEY'VE GOTTEN HERE? BECAUSE
7 THOSE -- THERE WERE TWO -- YOU KNOW, WE HAVE -- I
8 THINK THIS ISSUE WAS ORIGINALLY THAT STAFF WAS
9 PROPOSING TO MERGE THOSE TWO DEFINITIONS INTO ONE,
10 AND IS STAFF NOW OF THE UNDERSTANDING THAT THERE
11 ARE TWO DEFINITIONS -- THAT WE NEED TO KEEP TWO?

12 MS. RICE: CORRECT. I HEARD OVERWHELMING
13 COMMENT AND DISCUSSION FROM MEMBERS AND AUDIENCE ON
14 RETURNING MORE OR LESS TO THE TWO DEFINITIONS THAT
15 WERE INCLUDED IN THE '95 DECISION WITH SOME
16 CLARIFYING ISSUES THAT HAVE BEEN RAISED. AND WE'LL
17 BE WORKING ON THOSE CLARIFYING ISSUES BECAUSE
18 DIFFERENT PARTIES RAISED DIFFERENT CLARIFYING
19 ISSUES.

20 SO I'M CLEAR THAT WE ARE LOOKING AT
21 TWO DEFINITIONS, ONE FOR EACH TERM, BUT WHAT THE
22 EXACT WORDS WOULD BE, I THINK, NEEDS TO BE
23 WORDSMITHED A BIT, LOOKING AT ALL THE COMMENTS
24 RECEIVED BECAUSE A NUMBER OF FOLKS PUT DIFFERENT

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1 DIFFERENT.

2 MEMBER JONES: HOW WILL THE PROCESS GO?

3 MS. RICE: GETTING TO A RECOMMENDATION

4 OVERALL -- FIRST OF ALL, I'D LIKE TO REALLY THANK
5 YOU FOR THE TIME YOU SPENT ON THIS. THIS WAS VERY
6 VALUABLE FOR US. WE'VE BEEN STUMBLING A BIT WITH
7 THE RULEMAKING AND REALLY APPRECIATE YOUR GUIDANCE
8 TODAY FROM ALL OF YOU.

9 IN STAFF REPORT THE RECOMMENDATION
10 OVERALL IN THERE WAS THAT, BASED ON YOUR GUIDANCE
11 TODAY, WE WOULD LIKE TO REDRAFT THE REGULATIONS AND
12 START THE OAL PROCESS. I WOULD LIKE TO REVISE THAT
13 RECOMMENDATION AND INSTEAD REQUEST THAT, BASED ON
14 THE DIRECTION YOU'VE GIVEN US TODAY, WE WOULD LIKE
15 TO REDRAFT THESE REGULATIONS WITH YOUR DIRECTION
16 AND RETURN TO YOU IN OCTOBER WITH THAT DRAFT FOR
17 YOU TO LOOK AT AND FOR THE AUDIENCE TO LOOK AT.
18 AND AT THAT TIME WE MAY BE IN A POSITION TO REQUEST
19 THAT YOU GIVE US THE OKAY TO BEGIN THE OAL PROCESS,
20 BUT I THINK WE SHOULD COME BACK WITH THE LANGUAGE
21 GIVEN THE DEPTH OF THIS ISSUES AND THE FACT THAT
22 SOME OF THEM YOU GAVE US A CONCEPTUAL APPROACH, AND
23 THEN WE NEED TO SHOW YOU THE LANGUAGE.

24 MEMBER JONES: BECAUSE I THINK ON THE
25 SOURCE SEPARATED AND SEPARATED FOR REUSE, I DON'T
220

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1 WANT TO GET INTO THE DISCUSSION NOW AS TO WHICH OF
2 THE VERSIONS WE'RE GOING TO USE, BUT I THINK IT'S
3 CLEAR THAT, YOU KNOW, WHEN THE WORDSMITHING IS --
4 MAYBE WE NEED TO SEE BOTH OF THESE BECAUSE I THINK
5 THE STATUTE -- YOU KNOW, IF THE STATUTE'S LANGUAGE
6 NEEDS TO BE INCLUDED IN THE DEFINITION, WHICH I
7 THINK IT DOES, OKAY, THE BOARD MEMBER THINKS THAT
8 WE TAKE RETURNING THEM TO THE ECONOMIC MAINSTREAM
9 IN THE FORM OF RAW MATERIAL FOR NEW, REUSED, OR
10 RECONSTITUTED PRODUCT WHICH MEETS THE QUALITY
11 STANDARDS NECESSARY TO BE USED IN THE MARKETPLACE
12 GETS TAGGED ON TO THE END OF REUSE.

13 I'M NOT -- YOU KNOW, THAT'S MY
14 PERSONAL OPINION BECAUSE I THINK THAT CLARIFIES
15 WHAT AB 939'S LANGUAGE HAD. BUT I DON'T WANT TO
16 GET INTO THAT DEBATE, SO I WOULD LIKE TO AT LEAST
17 SEE THE LANGUAGE AND WHERE IT'S BEING DRAWN FROM.
18 OKAY. YOU KNOW WHAT I'M SAYING?

19 MS. RICE: ABSOLUTELY.

20 MEMBER JONES: IF WE'RE GOING TO SEE TWO
21 SETS OF LANGUAGE, I WANT TO KNOW WHAT THE SUPPORT
22 IS BEHIND IT. IF THE SUPPORT IS THE LAW OR THE
23 SUPPORT IS THE CONCEPT, I WANT TO MAKE SURE THAT WE

24 FULFILL, YOU KNOW, THE -- ALL THAT WORK THAT WAS
25 DONE ON AB 939 TO MAKE SURE THAT THE LAW WAS

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1 CRAFTED IN SUCH A WAY. AND THIS COMES RIGHT OUT OF
2 STATUTE, THE LANGUAGE.

3 MS. RICE: WE WILL CERTAINLY DO THAT.

4 CHAIRMAN FRAZEE: OKAY. SHOULD WE HAVE A
5 MOTION ON THE ITEM?

6 MR. BLOCK: WE'VE ACTUALLY DONE THIS AS A
7 STATUS UPDATE, NOT A CONSIDERATION ITEM, SO YOU
8 DON'T NEED TO DO THAT.

9 CHAIRMAN FRAZEE: THE STAFF DID PRESENT
10 CHOICES.

11 MEMBER RELIS: MY UNDERSTANDING IS, AS FAR
12 AS WE WENT, IS WE GAVE DIRECTION.

13 MS. RICE: WE RECEIVED YOUR DIRECTION AND
14 I'M HAPPY WITH THAT.

15 CHAIRMAN FRAZEE: OKAY. GOOD ENOUGH.
16 ANYTHING ELSE TO COME?

17 MS. RICE: NO. AND I'M ASSUMING THE ITEM
18 WOULD NOT GO TO THE BOARD. IT IS SIMPLY DIRECTION
19 FROM THE COMMITTEE.

20 CHAIRMAN FRAZEE: OKAY. ANYTHING ELSE?
21 ANY PUBLIC COMMENT? OPEN DISCUSSION? IF NOT, THE
22 MEETING IS ADJOURNED.

23

24 (THE MEETING WAS THEN ADJOURNED AT

25

4:10 P.M.)

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